

Secularism as a solution to the Problem

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Secularism as a solution to the Problem:

Imagine yourself as a Hindu or Muslim living in a part of the United States of America where Christian fundamentalism is very powerful. Suppose that despite being a US citizen, no one is willing to rent their house to you. How would this make you feel? Would it not make you feel offended? Would this not make you feel angry? Your anger could take two forms. First, you might react by saying that Christians should get the same treatment in places where Hindus and Muslims are in a majority. This is a form of revenge. History provides us with many examples of discrimination, exclusion and persecution on the grounds of religion. You may have read about how Jews were victimized by Hitler's Germany and several millions were killed. Now, however, the Jewish State of Israel treats its own Muslim and Christian minorities quite badly. In Saudi Arabia, non-Muslims are not allowed to build a temple, church etc., and nor can they gather in a public place for prayers. Second you might take the view that there should be justice for all. You may fight, stating that no one should be discriminated against on grounds of their religious practices and beliefs. This statement rests on the assumption that all forms of domination related to religion should end. This is the essence of secularism.

1. Secular state means "a State which doesn't recognize any religion as State religion, but treats all religions equality. State can be Secular but Individual can't be Secular. It treats all the religions equally. In a Secular state the State regulates the relation between man and man but is not concerned with the relation between man and God. One may worship God according to his own conscience. However the freedom of religion is not an absolute freedom in the name of the religion nothing can be done which is against public order, morality and health of the public.

Case Law: One Baba at Calcutta died in June 93, His devotees strongly believed that Baba would be alive. 40 days had been passed. The dead body of Baba was decomposed. The Police entered Ashram forcibly and destroyed by burning the dead body.

Principles of Secular State: I. **Liberty**: The state permits liberty to their citizen for the practice of religion ii. **Principle of equality**: State will treat equality to all religion. iii. **Neutrality**: The state will not prefer the religion as a state's own religion.

Almost all countries of the world will have more than one religious group living in them. Within these religious groups, there will most likely be one group that is in a majority. If this majority religious group then it could quite easily use this power against other religions. This domination of the majority could result in the discrimination, coercion and at times even the killing of religious minorities. Any form of domination based on religion is in violation of the rights that a democratic society guarantees to each and every citizen irrespective of their religion. Therefore, it is important to separate the State and religion in democratic societies and secularism is one of the concepts which will separate the state and religion.

Secularism in Indian context:

By the 42nd Amendment Act 1976, the term "Secular" has been inserted in the preamble. The two important terms Secularism and Religion are not defined anywhere. S.R. Bomai v Union of India The Supreme Court has held that Secularism is a basic feature of the constitution. The state treats equally all religions. Indra v Rajnarayana The basic feature of the secularism was explained by the Hon'ble Supreme Court which held that, Secularism means "the State shall have no religion of its own and all person of the country have the right freely profess, practice and propagate any religion.

The Indian Constitution mandates that the Indian State be secular. According to the Constitution, only a secular State can realise its objectives to ensure the following:

1. That one religious community does not dominate another;
2. That some members do not dominate other members of the same religious community;
3. That the State does not enforce any particular religion or take away the religious freedom of individuals.

The celebration of the religious festival within the school would have been a violation of the government's policy of treating all religions equally. Government schools cannot promote any one religion either in their morning prayers or through religious celebrations. This rule does not apply to private schools.

The second way in which Indian secularism works to prevent the above domination is through a strategy of noninterference. This means that in order to respect the sentiments of all religions and not interfere with religious practices, the State makes certain exceptions for particular religious communities.

Ex: The Sikh youth, does not have to wear a helmet. This is because the Indian State recognises that wearing a pugri (turban) is central to a Sikh's religious practice and in order not to interfere with this, allows an exception in the law

The third way in which Indian secularism works to prevent the domination I;e untouchability. This is a good example where members of the same religion ('upper-caste' Hindus) dominate other members (some 'lower castes') within it. In order to prevent this religion-based exclusion and discrimination of 'lower castes', the Indian Constitution bans untouchability. In this instance, the State is intervening in religion in order to end a social practice that it believes discriminates.

British rule: Secularism became more prominent under the British rule in India. The British government imposed separate laws for Hindus, Muslims, Christians, Sikhs and other religious communities. This was the basis of their divide and rule policy. With this a civil code came into existence that was not the same across all religions, but different for each religion. At the time of Independence, secularism was the main objective of political leaders. All prominent leaders of the Indian National Congress were committed to secularism. But unfortunately, the exact opposite happened, communal violence led to the partition of India and Pakistan in 1947 as separate nations. Pakistan was formed as a new homeland for Muslims who felt insecure of living in India, with a Hindu majority.

After Independence, India became a secular country in which the Indian state did not have any one state religion, but her people were free to follow or adopt any religion. Though gradually, most political leaders started urge communal ideology, which led to India becoming a communalism. By the 42nd Amendment Act 1976, the term "Secular" has been inserted in the preamble and India declared as a secular country. But During the early 80's communalism became so strong that it began to overshadow the secularism in India. The 1984 anti-Sikh riots in Delhi, The Babri Masjid/Ram janam bhoomi controversy in 1992, militancy in Kashmir and Punjab are few major examples which prove the superiority of communalism in India versus secularism. The vested interest of people behind communalism must come to an end only for a truly secular India.

Advantage of Secular state:

Firstly, it eliminates from the body politic ideas of division between individuals and groups on the basis of their faith and racial origin.

Secondly, That all must enjoy equal rights and no privileges,

Thirdly, Aristotle termed as 'distributive justice', the idea that all communities must have power, as they must share the duties and responsibilities of being citizens.

Fourthly: Freedom to choose and practice your belief/faith/religion.

Fifthly: No state laws could be made against religious system.

Finally: The major problem is the position of religious personal law in the legal structure of present-day India. That a Hindu, a Muslim, a Christian all citizens of the same country should

governed by different laws. In modern India is opposing the fundamental principles of secularism. The state must try for uniform civil code. The state shall also require a uniform civil Law and minority to be respected. Secularism is made of aggregation rather than segregation, or separation.