

5 Chapter

Debates on Secularism: Minority and Majority Communalism

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India is constitutionally declared a secular state. The political class is polarised on this idea. Religious confrontation is everyday phenomenon, where state's role becomes significant. The extremist forces, for their political mileage utilise the social divide based on religion and the long secular ethos gets jeopardised in the electoral battle. The religious violence has put forth threat to the value called secularism. There are scholars who are staunch supporters of secularism, whereas there are some who believe that idea needs more scrutiny in Indian context. From 'principle distance' to the question of 'toleration', this chapter tries to give the synopsis of the debates on secularism in India.

Keywords: Secularism, Communalism, Minority-Majority, Sarva Dharma Sambhava and Dharma-nirpekshata

INTRODUCTION

The Preamble of Indian Constitution declares India as a secular state, by the constitutional amendment in 1975. It is not something that only by adding the word 'secular' that India has become a secular state overnight. Rather it has been the continuous process of making India as a secular state by liberal-minded founders of the Constitution, the foundational trajectories of which could be traced to the long civilisational legacy of the country. As we all know that many religions originated from India itself and many religions came to India through trade and cultural exchange.

This continuous process of creation and development of cultural traditions engendered a thriving pluralistic society in India. Owing to this healthy cohesion, people of India have coexisted peacefully. We know the Bhakti saints like Rahim, Raskhan and Kabir. The heterodox belief systems and syncretic Sufi culture based on love and humanity symbolises the historical secular ethos. The *Din-i-Ilahi* of Akbar was one experiment to promote cultural harmony. Mahatma Gandhi led the freedom movement by uniting people of all religions under one umbrella to fight against British colonialism. These are some examples which show the embedded secular ethos in our Indian subcontinent.

Din-i-Ilahi

Din-i Ilahi, (Persian: "Divine Faith"), an elite eclectic religious movement, which never numbered more than 19 adherents, formulated by the Mughal emperor Akbar in the late 16th century AD.

The Din-i Ilahi was essentially an ethical system, prohibiting such sins as lust, sensuality, slander and pride and enjoining the virtues of piety, prudence, abstinence and kindness. The soul was encouraged to purify itself through yearning for God (a tenet of Sufism, Islamic mysticism), celibacy was condoned (as in Catholicism), and the slaughter of animals was forbidden (as in Jainism). There were no sacred scriptures or a priestly hierarchy in the Din-i Ilahi. In its ritual, it borrowed heavily from Zoroastrianism, making light (Sun and Fire) an object of divine worship and reciting, as in Hinduism, the 1,000 Sanskrit names of the Sun.

Source: <http://www.britannica.com/topic/Din-i-Ilahi>

WHAT IS SECULARISM?

So let's discuss first, what is secularism? In the West, the notion of secularism evolved with the advent of the post-Westphalian construct of nation-state which was by-product of thirty years of religious war in Europe. This was the time scientific development led human beings and mainly philosophers to think in terms of rationality and individuality, away from dogmatic thinking that emerged out of religious traditions. The questioning attitude of human beings led them to think about the solutions for the menace in the society, which is to say by and large was hitherto apprehended by rulers. As a result of this, a contest was fountained between religious institutions and state institutions that were motored by an urge on the part of religious institutions for a better say in public affairs. The sustained dominance of religious institutions was made possible because people still considered sacred and divine as something which should not be interfered with.



Raskhan (born 1548 AD) was a poet who was both a Muslim and follower of Lord Krishna. His real name was Sayyad Ibrahim and is known to have lived in Amroha in India. In his early years, he became a follower of Lord Krishna and learned the religion from Goswami Vitthalnath and began living in Vrindavan and spent his whole life there. He died in 1628 AD.

Source: <http://www.gutenberg.us/articles/raskhan>

Exploiting this tendency of the people, religious institutions or religiously-driven political actors created space for divisions in the society. The Enlightenment Age in Europe however, successfully restricted the space of religion in public affairs by detaching church away from the state. Religion was transformed into purely a private affair, leaving the individuals free to choose to be theist, atheist or agnostic. With this, the State emerged as the dominant clamant of a larger share in the public sphere.

In this regard, there are some pretext one need to keep in mind while talking about secularism, religion and state. In history throughout in India or world, the rulers, regimes and societies had fought war to capture political power. But the kind of legitimacy and mobilisation rulers and regimes got by mixing religion was tremendous. The mixing of religion and politics in diverse societies culminated into marginalisation and exclusion of those communities which stood out of power; majority, minority alike. Such kind of marginalisation results in divisive politics that may lead to vociferous tendency among the discontented groups. This discontent may manifest in secessionist and ultranationalist impulse of those groups. Communal politics in South Asia can be regarded as one significant example of this phenomenon. The biggest offshoot of communal politics in South Asia is India's Partition⁷ (Two-nation theory).



Secularism in India

Source: <http://www.thehindu.com/>

WHAT IS COMMUNALISM?

Communalism in India is used as the ideology which attempts to construct separate identity based on culture, religion, caste and community. It can be used for any religion, majority or minority, if that particular community uses to divide the society based on their belief system. Communalism is used to incite strife, violence and create tension between the communities. In the context of these thoughts, we should also look into the historical construct of enmity between communities in India.

During the colonial period when India was called British India (1773–1947), imperialist forces maximised their profits by dividing people and exploiting resources. Communalism is one legacy of this history of divisive politics. It was constructed by the British Raj to manage their day-to-day affairs by dividing the society on the lines of religion, ethnicity and language. For the British who were historically influenced by the post-enlightenment modernity, categorisation of the society into separate blocks was a political imperative. The colonisers considered it as part of the strategy of government. One of the major requirements for the Britishers then was to know India as an entity having different cultural components. The very idea of a viable India with overarching differences that could be managed and governed was impractical phenomenon for the colonisers. With the emergence of modernity, Europe had attained essence of uniformity and regularity. This uniformity and regularity were the product of the Westphalian synthesis that comprises a territorially well-defined state and the separation of church and state. Meaning that the people were organised as nation-state, whose political identity was defined in definite territorial terms and were governed by positive laws formulated on the basis of secular traditions. On the contrary, the existence of overarching differences based on religion, caste and language in India was antonymous to the European enlightenment values of state based on bounded territoriality governed by secular laws.

As Europe had witnessed the separation of religion from politics, the very idea of religion as a dominant force in the society was an anathema for the conduct of rational administration. The principle of metropolitan governance taught by philosophers like Thomas Hobbes and John Locke considered the assertion of religious differences as destructive for the functioning of a modern state. Hence for the Britishers, these differences had to be managed for running in an appropriate administrative structure. This very notion of the need for the management of difference and the denial of the idea of a cohesive India with all its plurality led the Britishers to device policies that provided a distinct identity and recognition to different communities. Such an approach was visible first of all through the policy of codifying Hindu and Muslim laws separately and the foundations of this were to be derived from the Hindu and Islamic religious scriptures. An initiative taken by Lord Warren Hastings, this policy reflected as to how the Britishers viewed the governance strategy in India from the perspective of religious scripture rather than secular traditions that were governed by positive law. Underlying such a policy was the idea of India as a large geographic territory, inhabited by inherently incompatible communities. This incompatibility according to the Britishers rose out of the dichotomous religious beliefs of Hindus and Muslims. Hence, the ordinary civil unrest and fighting among different groups of people based on socioeconomic issues

were termed as communal rivalry founded upon the basis of religion by the Britishers.³ So, the art of government for the colonisers rested in their ability to manage this dichotomy by keeping these communities divided. In addition to this yet another notion that determined British scheme of government in India was the image of Hinduism as an internally divided religion. This internal division had to be reflected in apparent administrative terms and decennial census became a significant instrument to achieve this task.⁴ Thus India, a land of messy diversity had to be managed at two levels – firstly, the incongruous religious beliefs of Hindus and Muslims and secondly, the division imposed by caste hierarchy within the Hindu society. Further, such strategy of British rule in India was evident in the policies of communal award and separate electorate.

Communal Award

In August 1932, Prime Minister MacDonald announced his **Communal Award**. Great Britain's unilateral attempt to resolve the various conflicts among India's many communal interests. The award, which was later incorporated into the act of 1935, expanded the *separate-electorate* formula reserved for Muslims to other minorities, including Sikhs, Indian Christians, Anglo-Indians and Europeans.⁵

Such divisive politics contributed to the crystallisation of separatist tendencies among both Hindus and Muslims and also led to the deepening of rivalries based on communal lines. This kind of separatism led to the creation of deep-seated psycho-cultural and socio-political antagonism. The formation of Muslim League and its subsequent demand for the creation of Pakistan based on the idea of subcontinental Muslim nationalism has been the result of such antagonism. In addition to this, the political demand for Pakistan mooted by the Muslim League got further hardened by Indian National Congress's disregard of minority rights of Muslims. Such an attitude was reflected when the Nehru Report did not accommodate Muhammad Ali Jinnah's demand for political autonomy in Muslim-majority provinces and also Congress's rejection of Muslim Leagues proposal for power sharing after the 1937 Provincial elections. Apart from this, there were also glimpses of cooperation between the Hindus and Muslims indicated through the Lucknow Pact⁶ and Congress's support to the Khilafat Movement.⁷

Nehru Report

The following are the recommendations advanced by the Nehru Report:

1. India should be given the status of a Dominion on a unitary basis with parliamentary powers of seat.
2. Residuary powers should vest in the centre.
3. India should have a parliamentary form of government headed by Prime Minister and six ministers appointed by Governor General.
4. There should be no separate electorate or weightage for minorities.
5. Reservation of Muslim seats could be possible in the provinces where Muslim population was at least 10%, but this was to be in strict proportion to the size of the community.
6. Muslims should enjoy one fourth representation in the Central Legislature.
7. The N.W.F.P. should be given full provincial status and Sind should be taken away from Bombay and made a separate province.
8. A new Kanarese-speaking province "Karnataka" should be established in South India.
9. Hindi should be made the official language of India.

Source: Nehru, Motilal, All Parties Conference, 1928 ("Nehru Report")

According to Muhammad Ali Jinnah, "The Committee has adopted a narrow-minded policy to ruin the political future of the Muslims. I regret to declare that the report is extremely ambiguous and does not deserve to be implemented."⁸ The inability of Congress to concede these points must be considered a major factor in the eventual partition of India.

The third phase (1930s and 1940s) (first phase establishment of Congress and Muslim League – 1900s and second phase – 1910s and 1920s had bonhomie between Indian National Congress and Muslim League. Lucknow Pact and Khilafat Movement were major achievements) was mainly marked by the overall bitterness between Congress and Muslim League. Hindu and Muslim Conflict marked the difference and mainly pitched by the political battles among the communities. This not only created warring agitation among both, but also raised the new issue of minorities which remained a

main issue of Muslim League. The differences got more aggravated with the results of general elections and provincial elections held under the British rule. As the League failed to gather popular support in comparison to the Congress, this added to the dissatisfaction. All this ended up, into loss of innocent lives and division of the subcontinent into two dominions, India and Pakistan.

The legacy of the divisive policies of the British and the partition of the Indian subcontinent still continues in independent India, in the form of bloody communal riots that occur intermittently. In post-partition India, the communal politics culminated into explicit violence and riots.



Babri Masjid Demolition (1992)

Source: <http://twocircles.net/>

- ✓ The Nellie Massacre (1983), Bhagalpur riots (1989), Babri Masjid demolition (1992), Gujarat riots (2002) and Muzaffarnagar riots (2013) are the major riots where Muslim minorities were targeted by the Hindu majority and thousands of lives were lost and lakhs were deserted from their homes. The electoral politics in India based on the question of majority vs minority identity, also tends to fuel communal divisions in the society. Such identity contestations have been part of electoral processes since the 1990s and have largely impacted upon the voting behaviour (For details, see Chapter 2).



Muslims take refuge in Julla Village following Riots during Muzaffarnagar (2013)

Source: <http://www.thehindu.com/>

For instance, the issue of Ram Temple at Ayodhya emerged as a major electoral agenda since the 1991 general election. Owing to this, the very secular character of the Indian state which is so concretely affirmed by the Indian Constitution has been put to doubt.³ The increasing communalisation of public sphere has led to competing claims of the nature of secularism in India. Hence at this juncture, it becomes crucial to understand the nature and competing meanings of the concept of secularism and the different debates that surrounds the phenomenon of secularism in India.

WHY IS SECULARISM NEEDED IN INDIA?

It is also a well-known fact that religion is so entrenched into the Indian society that it has become almost pervasive and many believe in superiority of their own belief system. Now, in this kind of environment where decisions are taken not on the basis of rationality or scientific temper but on the ground of religious sensibilities, then the question as to how secularism is going to be appropriate in this society, assumes paramountcy. Indian society is so communally charged because of historical animosity (read the Partition) between the Hindus and Muslims.



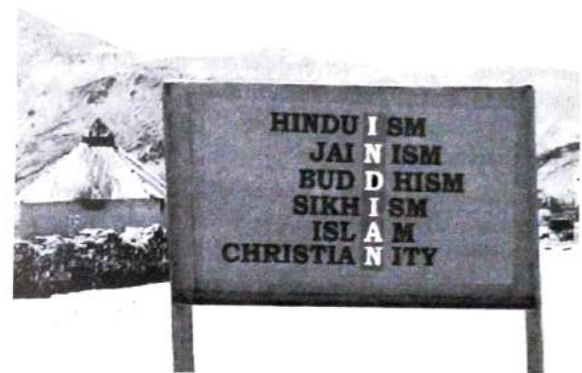
The Partition (1947)

Source: www.decanchronicle.com

This animosity has been sustained because the right-wing groups from both sides of the religious divide have nurtured it consistently. Owing to this, political violence and religious violence have been inflicted on the citizens through staged riots. Due to this complex trajectory, Indian scholars are divided on the idea of secularism and secularisation. There is no one voice among the Indian intellectuals regarding the interpretation of the meaning of secularism. As we know the Western understanding of secularism largely hinges upon the notion of separation of state and religion. This concept of secularism pervades not only in internal belief of individuals, but also permeates into the practices of everyday life because of the monolithic or by and large homogeneous society in the West. But in Indian understanding of secularism which is also the understanding of the Indian Constitution, secularism means, equality of all religions.

This is common understanding that when there are two opposite forces or two kinds of people, then the chances of conflict are imminent. Suppose in a society (country say, Socratistan) where everyone follows one religion, one God, wears one kind of dress, eats one kind of dish, listens to one kind of music, speaks one kind of language, and so forth, then that society does not have even need of secularism because it is already understood that the same kind of people are there in private and public. Now, imagine that there are ten people migrating from other country, say India from different states and scattered throughout Socratistan (possessing ten religions, ten languages, ten cultures), then it will be almost surprise to the people of Socratistan that

they might be intolerant towards those people because they are quite different from them. So in this kind of situation to accommodate those ten people from India, they will have to evolve some kind of mechanism which could be called anything, pluralism, secularism, multiculturalism, *sarva dharma sambhava* or *dharma-nirpekshata*. Though all the concepts have different meanings and understanding, different states evolve different mechanisms to accommodate different people and make everyone's life happy, peaceful and prosperous.



India — One of the Most Diverse Countries

Source: www.scoopsthoop.com

So, in a globalised world where migration and immigration is the continuous process and interaction of individuals has increased we cannot establish monocultural system and the only way out is the possibility of multiple cultures or plurality of cultures. In the light of this, it will not become problematic for Socratistan after evolving those mechanisms, to accommodate people from Tuvalu, Fiji, Bermuda, Rwanda, Zambia, Chile, East Timor or China. In this regard as already discussed above that India is the country full of different cultures, religions and languages. Hence, secularisation of public institution as well as society becomes a necessary proposition.

Indian notion of secularisation is considerably supported by the state. It does not believe in a strict separation of state and religion, rather, it seeks to ensure equality of all religions. State follows interventionist attitude, if practice of religion collides with the fundamental rights of an individual. This has been made very apparent in the fundamental law of the land. Article 25 on Right to Religion carries two sub-clauses, specifying this. "25 (1) states: Subject to public order, morality and health and to the other

provisions of this Part of the Constitution containing fundamental rights"; 25 (2) states: Nothing in this article shall affect the operation of any existing law or prevent the State from making any law".¹⁰ So, strict separation of State and religion like in Western conception is impossible in India. This indicates that the Indian state will not be entirely neutral in the matters of religions. There are two significant contexts in which the state intervenes in the functioning of the religious spheres – firstly, ensuring the rule of law; and secondly, in a developmental sense, imparting positive discrimination towards certain religious minorities. As a contrast, in the western conception of secularism, state is not bothered about religious beliefs of citizens or religious practices and institutions. State shall not patronise one religion and does not engage in discrimination on the basis of religion. It permits freedom of conscience, belief, and religion for all its citizens.

What is Secularisation?

According to Peter L. Berger, who is considered as pioneer of secularisation thesis; "...secularisation is the process by which sectors of society and culture are removed from the domination of religious institutions and symbols."¹¹

Charles Taylor calls secularization thesis as 'subtraction thesis'.

Taylor believes that a movement of Reform in Christianity, aiming to raise everyone up to the highest levels of religious devotion and practice, caused the move to secularisation. The disciplined Reformed self replaced the "porous" self, vulnerable to external forces, spirits and demons, with a new "buffered" self, a disciplined and free agent living in a progressively disenchanted world.

Source: Charles Taylor, *A Secular Age* (Cambridge: Harvard University Press, 2007)

Many social scientists have debated the definitional aspect of secularisation, but the common understanding is that through secularisation, religion shrinks to the private sphere and secular institutions enter into the public sphere. With the development in science and technology, human beings have become more dependent on their applications and products. Hence, the role of religion has diminished and is being taken over by science and reason. Secularisation should also be understood as the demarcation of several spaces which affects the life of an individual. Like religion helps to cater the spiritual need, there are many other domains through which human beings can shape themselves.

Many religions claim to be the 'way of life' and their sacred texts are supposed to be the constitution for them in their every day life. However, as secular, rational political decision-making has acquired the driver's seat and religious clerics are on the back seat in constitutional democracies, the role of religion as source of governing individual lives has largely been reduced. In a country like India, one 'way of life' cannot be imposed on the other and hence, the role of constitution becomes greater which is accepted by all. In this regard, if the democracy is functional in real sense, where everyone's equality for all is ensured and there is no discrimination on the ground of any factors (especially religion), then that state turns out to be a secular state. In a secular state, the sanction of religious institutions is not required for the exercise of constitutional authority and the Government draws its legitimacy from the public. Secular states should also provide basic fundamental rights where individuals are 'equal in the eye of law' and no one shall be discriminated on the grounds of 'birth, religion, race or sex'.

By declaring as 'WE THE PEOPLE' of India, constitutional authority is accountable to the people because the people of the country have resolved to form India as republic. In this sense, constitutionally India is declared to be a secular state. It adheres to the principle of wall of separation and also provides for the right to freedom of belief to all individuals. The State also does not favour any particular religion.



PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-ninth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Preamble of the Constitution of India

Source: www.scopichoop.com

We all know about public and private distinction in our everyday life. When we commute in public transport, we say that this is public transport and we claim our fundamental rights if denied access to travel in public transport. Likewise, government hospitals, government schools, public university and many other public institutions are open for all and accessible to everyone. But on the other hand, religion, faith and beliefs are the matter of private life. Citizens are not forced to go to any temple or mosque, there is no authority to enforce belief on them.

The two stalwarts of freedom movement and the founding fathers of Indian republic, Mahatma Gandhi and Pandit Nehru, believed in the concept of secularism. Gandhiji mobilised people from all faiths to unite for a common cause for freedom struggle and appealed that we should not fight and divide the society on the basis of religion. Gandhi's idea of secularism was that, all religions can co-exist together. He has not mentioned as to what should be the role of state in the affairs of religion, but his idea of *sarva dharma sambhava* creates enough ground for accommodation of differences in the society.

On the other hand, Nehru was a staunch believer in the idea of secularism and scientific temperament. Nehru's brand of secularism was of *dharma-nirpekshata*, which means that state should be neutral to all religions. Most of the debate in India on secularism hovers around these two poles of understanding. Nehru's idea of secularism needs further elaboration. For Nehru, the word secularism was not opposed to religion. Secularism for him meant the freedom of religion and conscience.¹²

"It is perhaps not very easy even to find a good word for 'secular' (are you talking about a secular State?, clarify). Some people think that it means something opposed to religion. That obviously is not correct. What it means is that it is a state which honours all faiths equally and gives them equal opportunities; that, as a state, it does not allow itself to be attached to be one faith or religion, which then becomes the state religion."

Source: S. Gopal (ed.), *Jawaharlal Nehru: An Anthology* (New Delhi: Oxford University Press, 1980), p.330.

According to Neera Chandhoke, there are three meanings of Nehru's conception of secular:

- Freedom of religion or irreligion for all, the state will honour all faiths equally, and that the state shall not be attached to one faith or religion, which by that act becomes the state religion.

- The fear of not having secularism means, in power politics, majority religion can dominate the body politic.
- The strength of secularism is that the minority would not be unprivileged because of belonging from particular religion. The role of state here is not only the recognition of all faiths but equal treatment to all faiths.¹³

However, if we look at the trends of the communalisation of Indian politics, it tends to compete with the idea of secularism propounded by both Nehru and Gandhi. It also goes against the basic tenets of Article 25 of the Constitution which ensures freedom to practice one's religion. Indian society has been communalised due to the propagation of divisive agenda by the right-wing ideologues, both Hindus and Muslims. Political opportunism on their part has led to a lack of clear-cut vision of a secular society. Owing to rivalry based on their self-interest, vitriol was exchanged and the question of secularism and secularisation got trivialised.

Debates on Indian Secularism

Before coming to the debate surrounding secularism in India, we need to understand that Indian society consists of diverse kinds of religions, ethnicities, languages, and so on. People evolve throughout their lives, being liberal, religious, traditional, conservative, progressive or mix of all these.

There are six major religions in India with diverse sects, castes and ritualistic traditions, presenting each religion as multifaceted and multi-layered faith systems. For example, within Hinduism, it is divided into castes (varnas), deity-based faiths, regional traditional differences, cultural diversities and also comprising sceptics, nonbelievers or atheists, making it as not a monolithic religion but a conglomeration of different little religions. Likewise in Islam, it is said is divided on majorly two sects (Shia and Sunni) and each divided into different school of jurisprudence. Islam as it is considered as monotheistic with a belief in one God (Allah) but it is not monolithic because it is not having one system which drives the entire community of believers. Within Islam there are multiple schools of jurisprudence and in each school of jurisprudence, there are several cultural divisions, which makes even Islam to appear as a conglomeration of little religions.

Similarly, divisions and differences are an innate part of any religion that emanate out of different interpretations of religious texts. Besides, each community evolves its own unique belief system based on ethno-linguistic and geographic multiplicities for the well-being of their members and satisfy their aesthetic aspirations as well as spiritual needs. Individuals are free to follow such diversities as long as they do not encroach into other's lives and take away their right to practice and propagate whatever they believe in.

Today secularism has also come as a doctrine, a teaching similar to that of religion and a belief system that supports the idea of separating religion and politics. India on its part has adopted a kind of system, where the wall of separation between religion and politics is not a concrete wall, but a sheet of paper/cloth. It's a hypothetical wall, which is so flexible that in case of any eventuality or violation of fundamental rights (constitutional rights), State is empowered to intervene into the domain of religious affairs.¹⁴ The important example which is cited is of Hindu Code Bill and Shah Bano Case (See in the box given later).

Owing to this, the discourse on secularism and communalism stands on a contested trajectory. As regards secularism, there are two dominant schools in India. One favours the concept to be taken seriously and blended into Indian context and the other school of thought questions the concept of secularism itself as the project/doctrine of the West. The first school of thought has defended the notion of secularism on the grounds of constitutional framework which is functional and working. The latter school holds a critical perspective that secularism is imposed without much scrutiny and hence it is a flawed concept and is not applicable in India. In response to this, the former argues that like democracy, liberty and freedom, secularism contains the conception of good and there is some virtue in it and it should not be thrown out only because it has emerged in the West. As a counter to this, the second school argues that the idea of secularism can only be achieved through the process of secularisation of the society. However, how one is going to secularise the society is itself a major point of contention.

Secularisation means intervention of the state in religious matters of individuals which is guaranteed as fundamental rights by the Constitution. There are different methods of secularising the society which we would be discussing later, but, before moving further let's see what are the prevalent debates in Indian academia on secularism. As we all know and we have discussed earlier that secularism means erecting a wall of separation. This doesn't mean devaluing of any religion. But, it is to make state free from the affairs of religion, leaving it entirely to the religious institutions.¹⁵

But it is also the matter of concern that state must treat all religions equally and it should not favour one religion to exclude the other. It is also seen that the state sometimes do favour the minority religion by evolving certain measures to safeguard their rights because of the fear of domination of the majority over them. The issue of majority and minority rights is discussed in the further debates on Indian secularism.

But then the question that comes up here is on the basic features of secularism. If secularism is the wall of separation between religion and state, then why does the state favour one religion and do not favour the other. An obvious

answer to that question is that the state engages in affirmative action in the domain of religion to give the minorities a sense of security and comfortable environment. The idea is to provide them equal opportunity, if they are left excluded in the race or competition. The majority it has been seen tend to achieve the political power. But secularism as a shield makes the minority to believe that the majority cannot take away their rights because the latter is holding control over the Government and the former lacks the same.

Among the staunch critics of secularism, Ashis Nandy figures at the top. His main contention is that first we should redefine what is faith. Faith, according to him, is a misunderstood term in the context of modernity and for him faith is nothing but an ideology. According to him, there are two meanings of secularism. First is the Western understanding according to which religious tolerance could come only from the devaluation of religion in the public sphere and from the freeing of politics from religion. The lesser the politics is contaminated by religion, this argument goes, the more secular and tolerant a state you will have. The word secular here then is opposite of the word sacred.¹⁶

The second meaning is that of the Indian version according to which "...secularism is not the opposite of the word sacred but that of ethnocentrism, xenophobia and fanaticism. One could be a good secularist by being equally disrespectful towards all religions or by being equally respectful towards them."¹⁷ And he says the true secularism, the second meaning insists, must opt for respect. According to Nandy, it is a non-modern understanding and was professed by Indian elite to mobilise masses against British rule during the colonial era. This concept (Indian version) seeks to woo the average Indian who is not exposed to Church-State debate of pre-modern Europe.

T.N. Madan explains that, "...in the prevailing circumstances secularism in South Asia as a generally shared credo of life is impossible, as a basis for state action impracticable, and as a blueprint for the foreseeable future impotent. It is impossible as a credo of life because the great majority of the people of South Asia are in their own eyes active adherents of some religious faith. It is impracticable as a basis for state action either because Buddhism and Islam have been declared state or state-protected religions or because the stance of religious neutrality or equidistance is difficult to maintain since religious minorities do not share the majority's view of what this entails for the state. And it is impotent as a blueprint for the future because, by its very nature, it is incapable of countering religious fundamentalism and fanaticism."¹⁸

Akeel Bilgrami criticises T.N. Madan and Ashis Nandy on the ground that they keep saying that religious identities should be recognised in the public sphere. He counters their argument by saying that, this means that religious

identities which are communal in nature and portray one section of society as alien or foreigner should also be recognised. But Bilgrami indicates that Nandy and Madan outrightly reject the possibility of recognising communal forces as well. Nandy and Madan agree that religious identities have entered into political sphere and this phenomenon has led to incivility, violence, riots, etc.¹⁹

In this situation when the society is in crisis, is secularism way out?

The civil society members by and large not based on any cultural or religion lines are supposed to be secular in nature. And the organisations like RSS, Jamaat-e-Islami or any other religion-based organisation may not be called as communal until and unless it is divisive in nature or do not comply with the laws of the land.

It is also argued that India's civil society is embedded in religiosity which poses a problem for secularism as a state project. But on the other hand, it is civil society itself which can help in facilitating the secularisation process and inculcate tolerance. For Madan, it is dichotomous but a potent argument that to counter religious fanaticism, religious pluralism should be popularised and also there should be a considerable recognition of multiple religious practices.

Achin Vanaik believes that the root cause of communalism in India is religion itself. For him, it is the responsibility and duty of the state to secularise civil society and also the state itself. Vanaik thinks that traditional beliefs and prejudices are a blockade for the formation of a secular state. The process of rationalisation, inculcation of scientific temper and democratisation are impossible in a society which is rooted in religion, prejudices and traditions.²⁰

Like Madan, Bilgrami too thinks that there are strength in religious communities which could be utilised for creating a secular society and the state. Bilgrami argues that Nehruvian secularism was the product of the context, which happened during the Partition. This brand of secularism was not the emergence as the product of dialogue between religious communities but it was the only method to stop barbarity and bestiality that ensued in the aftermath of the Partition.

It is also said that the horrific events during Partition was the failure of secularism and the lack of recognition of minority rights by the Nehru Report of 1928. Even during the tough times of rioting and massacres endangered by the partition of the Indian subcontinent, it was not considered necessary to insert word 'secular' in the preamble or any part of the Indian Constitution.

Many scholars do suggest that religions should be treated equally and this will avoid possibilities of any grudges in the minds of communities regarding any form of favouritism. However, no one has explained as to what parameters the state must follow to treat all religions equally. Indian Constitution ensures rights of the minorities to practice their own culture and also the right to run their own religious institutions (Refer to Articles 25, 29 and 30).²¹

Article 29 in the Constitution of India 1949

29. Protection of interests of minorities

- (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same
- (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them

Article 25 in the Constitution of India 1949

25. Freedom of conscience and free profession, practice and propagation of religion

- (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion
- (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law
 - (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
 - (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus; Explanation I - The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion; Explanation II - In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly

30. Right of minorities to establish and administer educational institutions

- (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice
- (1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause
- (2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language

Source: <http://indiankanoon.org/>

With reference to the equal treatment of all religions, the Indian government tried to bring in reforms which included the introduction of the Hindu Code Bill. However, it was protested by the Hindu religious organisations. The initiative of the Government to introduce Hindu Code Bill was also seen as violation of the principle of 'wall of separation' which is the heart of secularism. Subsequently, successive Governments did not touch the personal laws of minority groups. Hindu Code Bill was opposed by Hindu right-wing organisations because they felt that only Hindu religion was singled out and the state interfered by reformulating Hindu Personal Law. As a contrast, Muslim Personal Law remain untouched.

Donald E. Smith in his work, India as a Secular State (1963) stated that India has some features of secularism but not all the features based on which it can be called as a 'secular state'. According to Smith, there are three features of a secular state: first, 'liberty and freedom of religion', second, 'citizenship and the right to equality, non-discrimination, and neutrality' and third which is very important is 'the separation of state and religion'. According to Smith, there is non-separation of state and religion in India. The debate over the Hindu Code Bill which has been discussed above can be situated in the framework of Smith's argument. Similarly, such a critique of Smith also re-emerged in the 1980s in the light of the politics over Muslim Personal Law that surfaced with the Shah Bano Case.

Case 1. Shah Bano, the elderly woman was divorced by her husband from him under Section 125 of CrPC. The MP High Court gave the decision in Shah Bano's favour. Her husband, Ahmed Khan moved to Supreme Court as an appellant and referred to Section 127(3) of CrPC, saying that he wasn't obliged to pay the maintenance asked by Shah Bano after the three months of *iddat*. The Supreme Court upheld the judgement of MP High Court stating that Section 125 of CrPC overrides Section 127(3b) and SC subordinated these sections which was cited by Ahmed Khan but also undermined the role of Muslim Personal Law, which has discretionary power to adjudicate in the matter of religious nature such as marriage and property rights.

The intervention from the highest courts in the matter of Muslim Personal Law was seen as disregard to the rights of minorities. The SC bench also suggested government to enact Uniform Civil Code (UCC) which has been enshrined in the Directive Principles of State Policy (Article 44).

PART IV

Directive Principles of State Policy

Article 44: Uniform civil code for the citizens

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

The Muslims came on streets opposing a ruling which according to them was against their religious doctrines. After much hue and cry, the government succumbed to their demand and exemption was made for Muslim women from the protection provided according to Section 125 of CrPC. This meant that Muslim women cannot seek assistance or go to courts for getting any remedy.

The critical question that arose after Shah Bano case was that what is 'Indian' secularism? Is it selective state intervention or minority rights? Linked to these, is the question raised by Partha Chatterjee: Is secularism adequate to counter the political challenge of Hindu majoritarianism?

According to Chatterjee, strict separation of religion and politics will give rise to persecution and discrimination of minorities. He links this to the Hindu majoritarianism where majority can persecute minorities and only separation cannot protect the minorities. He is also of the view that establishment of the norm of toleration can reduce communal politics and

differences can get recognised in terms of rights and duties. According to Chatterjee, democratic accountability within groups is essential to build minority rights into the principle of toleration.²²

As we all know the often repeated 'principled distance' theory of Rajeev Bhargava is central to the secularism debate in India. He defends the Indian way of secularism calling it as being distinct from the larger understanding of secularism. He is of the view that secularism involves differential treatment of the minorities and underprivileged sections of the society.

According to Bhargava, there are three kinds of secularism. The separation between state and religion, where values such as autonomy, development, or reason are the part of rights granted from the state and is called hyper-substantive secularism. The second kind is called ultra-procedural secularism in which religion and state is separated in the name of purely impersonal, value-free, rational procedures and rules such as bureaucratic and technocratic rationality. The third one is contextual secularism which is of major concern in India. According to Bhargava, it is principled or non-sectarian distance or non-absolutist separation between state and religion. Contextual secularism is committed for substantive values and procedures.²³

In this kind of secularism, state does not grant separate electorates but does accept personal laws. As in many post-colonial states as well as in India, religion has entered into politics and hence it is quite difficult to see the possibility of the success of any kind of secularism. Yet contextual secularism seems appropriate in the Indian context. Contextual secularism also imbibes ultimate ideals. So for Bhargava, secularism is compatible with the differentiated citizenship rights and it should not be strict intervention, non-interference or equidistance. However, in the context of any crisis, the State is open to intervene, interfere or keep equidistance.

According to Amartya Sen, secularism is a comprehensive idea. India is an integrally plural country made up of different religious beliefs, language, groups and divergent social practices. Secularism for him is recognition of heterogeneity. According to Sen, "secularism is the...symmetrical political treatment of different religious communities...balanced political treatment for him, can be achieved...in rather disparate ways".²⁴ He believes that secularism is achievable only when we debate and discuss in terms of equal treatment of individuals and communities.

For Neera Chandhoke, secularism is the intrinsic component of the historical, constitutional, and political practices of democracy, freedom, equality, justice and rights. She is of the view that, if the society subscribes to the idea of democracy it is quite natural that it would also subscribe to the idea of the right to freedom and equality. According to Chandhoke, there are

some attendant concepts of secularism, which are equality, freedom and democracy. Attendant concepts of secularism means that equality, freedom and democracy are already present in the idea of secularism. So when we say secularism, what we mean is not only separation of religion and state, but also equality, freedom and democracy. Chandhoke argues that, procedural equality or formal equality will lead to inequality and subordination of the minorities to the interests of the majority. What she means to state here is that there should be equal treatment accorded to different groups, depending upon their specific circumstances. This means that the notion of equality of religions would imply towards the necessity of giving protection to the religion of those groups who are under a constant threat of being subordinated to the majority interests.²⁵



Confused Seculars

Source: cartoonistsatish.blogspot.com

Religious affiliations, belief systems and religious social world are parts and parcels of everyday life of an individual. So, it is pertinent to accept the idea of religious pluralism. For that, if the principle of equality enshrined in the constitution is followed rigorously, then state cannot align with any one religion or turn out to become a theocratic state, argues Chandhoke. That is the reason she stresses more on reading secularism with democracy which will help in ensuring equality in inter-group as well as intra-group relations.

According to Chandhoke, the idea of *sarva dharma sambhava* is coded with formal equality and Hindutva is comfortable with that. But Hindutva is against the idea of substantive equality, in which vulnerable or minorities are given special protection. She says that, state should stand for defending minority rights in order to protect minorities from hegemonic assimilationist agendas.

CONCLUSION

The debates surrounding secularism is inextricably linked with the notions of both minority and majority communalism. Post-independent India has been a witness to the continuity of communal rivalries, the seeds of which were sown during the British period. Partition of the Indian subcontinent and the resultant holocaust left a deep imprint in the Indian public imagination. The psychology of hatred, fear and victimhood arising out of the divisive nature of that epoch consistently bedevilled civic life in the country. This happened not because the people on different sides of the religious divide intended to sustain the culture of hatred. But rather the communally delicate sensitivity of the people has been exploited by politically interested fringe groups for their own selfish gains. Thus both, minority as well as majority communalism has largely been responsible for the complexities that is associated with the Indian notion of secularism. Actors from both the minority as well as majority have debated between the western versus the Indian notion of secularism and the constitutional versus faith-based notion of secularism. However, a consensus regarding the role of the state in religious affairs is yet to be reached. Although the Supreme Court has consistently held that secularism is one of the basic structures of the Indian Constitution and it is from the constitutional framework that we should understand the Indian notion of secularism. Anyhow scholars across the board have not been able to establish this phenomenon and have debated the states constitutionally sanctioned authority to intervene in religious affairs in so far as the matters of rule of law and procedural justice are concerned. On its part the Indian state in its entire post-colonial history has grappled with the problem of balancing the two notions of secularism; the state intervention in religious affairs in the name of rule of law and the maintenance of a Jeffersonian model of a secular state for protecting individual freedom of conscience.



Beef Ban

Source: <http://www.liveline.in>

The state has been coerced towards resorting to such an act of balancing primarily because of the divisive role played by both Hindu and Muslim right-wing religious fringe. The major instrument in the process of such coercion has been electoral battles and revolution in the field of media has accentuated this entire process. The contemporary debates over issues like *love jihad*, *ghar wapasi* (communal politics), the politics over *beef ban*, the debates over *intolerance*, have all signify the syndrome of the predicament of secularism in India.

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