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**UNTANGLING SECULARISM IN AN ERA OF CONSTITUTIONAL
SUPREMACY****Introduction**

Human's belief in his creator gave rise to religionism. Soon after the advent of religion the entire civilisation fell into the prangs of religious dogmas. In the theocratic society, some specific sections become subject to persistent discrimination by the others. The supreme positions are dominated by the orthodox wings of the society, which eventually negate any kind of defiance. To eliminate such defective system of society the principles of secularism are essential. The term 'Secularism' is a proposition that promotes separation of State from religious institutions. In literal sense secularism signifies the detachment of religion from economic, social, cultural and political dispositions of life and religion must be treated wholly as a personal affair. Religious notions shall be barred from interfering civil affairs. Major democracies of the world have adopted the secularism to keep State affairs untouched from religion. The concept of secularism evolved & flourished in Western world followed by series of conflicts & revolutions, later it was borrowed by India as well. Indian concept of secularism is distinct from the rest of the world. In recent years the country's situation has tangled up the existence of secularism. In a pluralistic societal set up secularism holds paramount importance to attain social peace and harmony. The secularism in India has traversed the various jolts because of communal riots, casteism, conservatism, religious orthodox. At the same time India is a country where constitutional spirit is above the religious ethics, hence, whenever the 'secular' ideals are in peril Constitution comes forward to safeguard it and ensures preservation secularism.

Evolution of Secularism

From 5th to 14th century the western world was heavily influenced by religious convictions which led only nominal development in context of economy, society, science, knowledge, literature, philosophy.

Religious representatives believed that the only purpose of this life to get into highly abode of heaven their belief in spiritual world was so firm that they refused to accept the existence of scientific percept of life. The religious doctrines made mankind to believe in afterlife rather than the present life on earth.

After enduring through prolonged subjugation of religious supremacy the Western society was struggling to free themselves from regressive religious doctrines. Human quest to find answers for all prejudices disguised as religion ignite the renaissance movement.

Traditional concept of religious supremacy began to fade away with the passage of time. Serious thoughts began to hover over the minds of some intellectuals to question such regressive way of life. Now the world was moving towards logical enlightenment, human race began to find its lost identity and soon there developed favourable conditions to enhance the scientific discoveries and inventions. Darwin, Copernicus, Galileo, Newton and many other protagonist of the logical world endeavoured to develop the scientific percept to negate the religious hegemony. Besides scientific searches there occurred social and political movements as well. Scholars like Mac Ively, Bodin and John Locke purported that the state affairs shall be managed by the head of the State not by the religious head. I

n the year 1851, George Jacob Holyoke coined a word 'secular,' originated by the term 'saeculum'- fixed period of time. It conferred the ideology of keeping State affairs separated form religious affairs, ultimately, world powers arrived at the consensus to adopt a secular system that could separate religion from State affairs and both could flourish as independent institutions. This notion was developed in contravention of religious fallacies with the motive of preserving peace among the people and to channelize the logical growth of the society. Holyoke propounded that imposition of religion is unacceptable, the belief in God shall be dealt as personal affair rather as a tool to patronage the stagnation of societal structure. Moreover, in order to facilitate the good and wellbeing of humanity, harmonious existence of faiths becomes

important not the dominant one. Secularism advocates the significance of material world i.e. 'this worldliness' rather than spiritual affairs. The western secularism is normative & rigid in nature, thus the State never intervene into religious affairs.

A tangled tale of Indian Secularism

Secular traditions are deeply rooted in the history of India but the secularism has very enthralling journey from the very beginning. India, a federal nation is land of multi-religions, diverse culture and language which does not own any religion as State's religion. Its culture is based the blending of various spiritual traditions and social movements and each culture have its distinct identity.

Secularism in India represents equal respect to all religions unlike the western secularism which totally negates the presence of religion.

In Indian context the secularism is interpreted two different ways

1. Dharma Nirpekshata - a normative concept of secularism which totally negates the existence of religion i.e. Western model of Secularism.
2. Panth Nirpekshata - Positive and liberal concept of secularism, it aims to respect the coexistence of various faiths which is to be dealt totally as a personal matter detached from State affairs; i.e. Indian model of Secularism.

India being the land of varying culture faith and traditions follows the latter ideology. Eventually it works on the principle of 'Sarva Dharma Sambhava' - All religions are equal and their harmonious coexistence is possible. The Indian concept of Secularism seems liberal and affirmative but it shares many tangled narratives.

In ancient India the Dharma was meant to develop as holistic as possible by welcoming various spiritual traditions and to integrate them into common mainstream. The development and expansion of various religions highlights the religious plurality of the nation. The tenets of secularism can be found in history in one or the other form. In the third century Emperor Ashoka in his 12th rock edict made an appeal not only for toleration of all religion but also to develop a spirit of great respect towards them and announced that state would not prosecute

any religious sect. With the passage of time the emergence of various religions with different core values became prominent and the quest for religious toleration and coexistence of different faiths eternalized.

In the medieval India, the themes of sufi and bhakti movements synthesized the people of various communities together with love and harmony. During Akbar's reign the promulgation of Din-E-Ilahi or the divine faith which had elements of different faiths flourished, he forbade forcible conversions and abolished Jizya; he emphasized the concept of Sulh-E-Kul or peace and harmony among religions. The distinct system of his tolerance policy could not make greater effect because of succeeding rulers' inability to sustain the tolerance policy.

The doctrine of secular principles got strengthened and enriched during the Indian freedom movement. People with different communities from different social strata struggled collectively to acquire the Independence from British paramountcy. The movement was epitomized by secular tales and ethos right from the beginning. Now the fate of secularism was dependent upon the nobility and goodness of the people of Independent India. It was upto the framers of the constitution to bring the secularism into the mainstream. The constitution is given the supreme position while dealing with conflict between law and religion. But in the country which follows rule of law above all the issue arise very often with different sect of the people. And because of varying societal structure of the country the secularism has always been in controversy. The nation's belief in secularism is shaken up when countrymen collectively as a society indulge into religious dissension. And such defiance are threat to the secular ideology of the Indian diaspora.

Before 1960s the religion wasn't explicitly into the mainstream of political arena as it became afterwards. Religion based Polarisation and religious influence on State affairs have become more frequent, the enactment of majoritarian privileges and minorities' appeasement policies to attract the political support has become more prominent. The Indian politics is no more untouched from religion and related affairs. A nation which vow to secularism very often seen as religious influenced State. Lack of tolerance and coexistence causing to fade away the secular ethics from Indian Society.

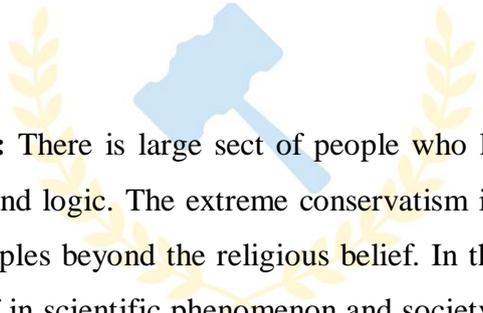
Some of the major threats:

Caste System: The caste system is so embedded in India that it has hindered the harmony of the society. The hierarchical domination by the upper caste on the lower ones work as a tool of

oppression, humiliation & grave injustice to humanity. The caste sentence has set foot in the Indian politics which often proved as biased politics and affects the secular principles of the State.

Religion and Politics: The religion has invaded the political arena so strongly that every political party is inclined towards some or the other religious groups. That inclination is not limited to their personal life rather it is used as a medium to mobilise the vote shares during elections. The political parties are under religious influence to secure their political positions and at the other end they swear or affirm to work for a secular nation. Hence, the invasion of religion into the politics is seen as an eminent threat to secular ideology of the nation.

Obscurantism at its Peak: There is large sect of people who live by their own principles denying the facts, science and logic. The extreme conservatism ignores the existence of any knowledge or human principles beyond the religious belief. In the era of modernisation, the human race has more belief in scientific phenomenon and society has advanced so much but the presence of obscurantism lead certain groups to deny those sane prospects of life. When the world is moving fast-forward obscurantism in certain class of people in Indian diaspora create obstacles to the secular ethics.



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Communal Disharmony: The inter religious domination by one community over the other to oppress and exclude the dissenting voices escalate the communal tension between different religious groups. Eventually such disharmony endanger the secular ethos of the nation. Communities very often pitch against each other over immaterial issues giving rise to extreme phases of communalism. The inherent clashes between minorities and majority stand contrary to the secularism of India.

Constitutional Supremacy in context of Secularism

Whenever an issue arises regarding secularism in the society or under any governing body the Constitutional provisions holds supremacy over the circumstances. Constitution protects the secular ethics of Indian society by providing equal protection to all religion keeping separate it from State affairs.

Some of the secular provisions:

42nd amendment act 1976

By the 42nd Constitutional Amendment, 1976, the term 'Secular' was inserted into the Preamble to signify the presence of secularism in India. The underlying principles of secularism were already present implicitly in the Indian Constitution which is the supreme law of the land. Secular spirit is omnipresent in the Indian subcontinent since ancient times. Indian Secularism never negates the presence of religion or apathy towards religion; rather, it respects all religions equally. The state is required to stay neutral in religious affairs, it is obliged to protect but it cannot interfere with any religion.

Though the word 'secular' was added in the Constitution in 1976, the provisions of the Constitution encompass the secular ethics of India ever since the enactment of the constitution.

Article 14: Provides for equality before law and equal protection of laws to everyone which indicates every person is equal in the eye of law and there shall be no discrimination.

Article 15: Article 15 incorporates a wider perspective of secularism as it prohibits any kind of discrimination based on race, religion, caste, sex or place of birth.

Article 16(1): In the spheres of public employment, this article encapsulates the equal treatment to all its citizens and forbids discrimination based on race, religion, descent, sex, residence, place of birth or on the grounds of any of them.

Article 23(2): The State is empowered to command its citizens for compulsory services of the country when necessary but that selection to serve the country shall not be based on religion, race, caste or any of the grounds.

Article 25: It forms the very basic tenet of positive secularism as it provides freedom of conscience to all along with the right to practise, profess and propagate the religion freely to everyone.

Article 26: The freedom to constitute and regulate religious & charitable works, is given to all religious groups.

Article 27: In no circumstances State can impose any kind of taxes on citizens to promote and improve any specific religion or religious affairs.

Article 29 &30: It protects the cultural and educational right of the minorities as they are at the verge of discrimination by the dominant class.

Article 44: This Article guides the state to establish a Uniform Civil Code in order to consolidate the scattered personal laws. Further, Uniform Civil Code is mandatory to enhance the existence of secularism in India.

Article 51 A: The fundamental duties are non-justiciable in court of law but it is obligatory in nature imposes duty on all citizens to promote unity and the spirit of common brotherhood, value and preserve the rich heritage of composite culture.

Article 325: It delineates the voting rights to all of the citizens irrespective of their religion, race, caste or sex.

Besides these constitutional provisions some statutory provision supports the idea of secular nation.

Representation of People's Act: Section 123(3) intends to preserve the secularism by detaching religion, race, caste, community issues from electoral politics.

Criminal Laws: Indian Penal Code, Criminal Procedure Code, Indian Evidence Act all of them applies to the whole of India irrespective of which faith one comes from.

Civil Laws: Civil Procedure Code, Special Marriage Act are core supporters of the principles of secularism. Moreover, Juvenile Justice Act, 2000[provides adoption provisions to all irrespective of their faith] apply to all over the citizens of the nation with certain exceptions.

Oaths Act 1969: The inclusion of words like 'affirmation' signify the nation's effort to abide by the secular tenets.

Judicial Precedents

Judicial precedents play important role in interpreting the provisions of any law in a comprehensive manner. Supreme Court from time to time has ruled in the favour of 'secular principles' of the country which encapsulated in the sole of Indian Constitution. The Supreme

court of India while hearing **S.R. Bommai's** [1] case stated that Secularism was as much part of the constitution even before the secular word was inserted into the Preamble. It forms basic spirit of the Indian constitution and can be abrogated in no condition.

In another issue of **Santosh Kumar** [2], the arguments were raised regarding teaching of Sanskrit in schools. The court interpreted that teaching Sanskrit is not against secularism. It is protected under Part XVII of the constitution. Sanskrit holds the major importance in India's educational ethos. All the ancient scripts, including history, Vedas, Puranas and other texts are primarily written in Sanskrit only. The Indian civilisation and Sanskrit are inseparable, therefore Sanskrit should be seen as facets of education rather than representative of any religion.

In the case of **Aruna Roy**[3], there was contemplations against the educational curriculum which had some learnings inclined to the teachings of a religion such as the Vedic method of calculation, celebration of all religious festivals to promote cultural conscience, inclusion of education to elevate the spiritual quotient of the children .

Hon'ble supreme court pronounced that the Vedic calculation shall not be looked as a religious practice rather it should be looked as an aid in computation learning, teaching about religion is not an issue in itself rather religious teaching is problematic. Celebrating all festivals will give exposure to the kids about different religion, hence it is not against secularism. Through the above cases it is evident that the constitutional morality shall always prevail over the religious morality.

Conclusion

The philosophy of secularism purports the separation of state affairs such as economic, political social and cultural from religious affairs. If the religious predicaments are so engrossed in nature that it troubles the sane existence of human society then state must curtail the impacts of it and State must provide protection to the oppressed groups. To establish and sustain a humane society the governing principles of the State shall apply equally on all without religious influence. The constitutional provisions are protectorate of the secular ethics of India. With tolerance policy and coexistence of various faiths with peace and harmony the state shall abide by the essence of reformative secularism where every religion could flourish independently without intervening into the State affairs. Nothing can take away the Indian concept of secularism which is grounded in the soul of the Constitution.

[1] S.R. Bommai v. Union Of India, (1994)3 SCC 1,149

[2] Santosh Kumar v. Ministry of Human Resources Development, (1994)6 SCC 579

[3] Aruna Roy v. Union of India (2002)7 SCC 368

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