



Tenets of secularism in Bharat: A comparative study of past and present

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Abstract

This manuscript has been written to draw the reader's attention firstly towards the legally ratified meaning of secularism in Bharat and then to its implementation to different scenarios and walks of life by the Legislature as well as the Judiciary of the day. There have been certain decisions of far reaching implications, made by the aforementioned organs of the State intervening/interfering with personal laws, religious practices, customs etc. in the name of secularism and sailing over the tides of time. The questions that loom large are about the depths of religious understanding of law makers and judges with respect to the issues at hand, issue of being awed by western culture in the name of change and modernity, and the correctness of the scales of modernity and development in contrast to the 8000 years old Indian civilization and the values cherished in it till date. However, at the end of the day, it shall be the common citizen of Bharat who will have to live with the short end of the stick. The author has tried and summarised the said issues along with relevant case laws, statutes accompanied by his own humble sense of law and religion, in the shining light of the Constitution of Bharat.

Keywords: Religious syncretism, secularism, principled distance, vasudhaiva kutumbakam

Introduction

Defining Secularism in the Bharatiya Context

Secularism, as a concept, encompasses a broad range of worldviews and political principles that seek to delineate the relationship between religion and various aspects of human actions, particularly the state. While a universally accepted definition remains elusive, even among the scholars, modern understanding often centres on the separation of religious institutions and practices from the realm of civil affairs and governance. This separation is frequently advocated as a means of safeguarding the rights and freedoms of all citizens, irrespective of their individual religious beliefs or affiliations. Secularism, in its broader philosophical sense, can also represent a commitment to naturalistic explanations of the world, prioritizing material concerns over religious interpretations. The secularization of society, a related but distinct process, refers to the declining influence of religious belief and practice in both public and private life, often leading to the formalization of secular principles in law and policy. However, the application and interpretation of secularism vary significantly across different cultural and historical contexts. Bharat, a nation renowned for its profound religious diversity, has developed a unique model of secularism that differs in crucial aspects from those prevalent in the Western world. Unlike the strict separation approaches in countries like the United States or France or United Kingdom, Bharatiya secularism involves a more nuanced relationship between the state and religion. The Bharatiya Constitution, while being committed to the ideal of a secular state, allows a certain degree of state intervention in religious affairs- which is polar opposite of the western concept- primarily aimed at promoting social justice, equality, and the well-being of all citizens. This model emphasizes equal respect for all religions ("Sarva Dharma Sambhava") rather than a complete detachment of the state from religious life. The concept of 'principled distance' further elucidates this unique approach, wherein the state maintains neutrality towards all religions but reserves the right to engage with them to uphold constitutional values and ensure social harmony.

This paper aims to provide a comprehensive historical analysis of the evolution of secularism in Bharat, tracing its trajectory from the ancient period through the medieval and colonial eras to its manifestation in independent Bharat and the contemporary challenges it faces. By examining the interplay between secular principles and Bharat's rich religious tapestry, this study seeks to offer a deeper understanding of this complex and dynamic relationship.

Ancient Bharat: Seeds of Religious Coexistence

Ancient Bharat presented a remarkably diverse religious and philosophical landscape, with Hinduism, Buddhism, and Jainism emerging as the major traditions alongside a multitude of localised or regional spiritual and philosophical schools. These ideologies, while distinct in their doctrines and practices, often shared fundamental concepts such as karma and the pursuit of salvation or 'Moksha', suggesting a common cultural and spiritual heritage. The Bharatiya civilization, which developed on the foundation of the Vedas and Upnishads and thrived on the basis of 'reason, debate and acceptance', gradually slipped to unsatisfactory position in the hands of inept rulers and influences with vested interests; while heterodox movements like Jainism and early Buddhism offered alternative perspectives and challenged the said falling standards. The interactions between these diverse religious traditions were extensive and often characterized by dialogue, exchange, and syncretism. Philosophical discussions between Hindu and Buddhist scholars led to the refinement of ideas and the synthesis of different viewpoints, contributing to the development of syncretic schools of thought. This cultural exchange also found expression in art and architecture, with Buddhist and Hindu motifs frequently appearing together in stupas, monasteries, and temples. A notable example of this syncretism is the assimilation of Buddha into the Hindu pantheon as an avatar of Vishnu, illustrating the fluidity of religious boundaries. Moreover, Hinduism incorporated the principle of ahimsa (non-violence) as a central ethical tenet, possibly influenced by the emphasis on non-harming in Buddhism and Jainism.

The religious policies of major empires and rulers in ancient Bharat offer further insights into the approach towards religious diversity. The Mauryan Emperor Ashoka, following his conversion to Buddhism, adopted the policy of Dhamma that promoted peace, tolerance, and social welfare across his vast empire. His Dhamma emphasized upon universal ethical principles and advocated for respect towards all religious sects, guaranteeing them the freedom to practice their beliefs. Ashoka extended his patronage to various religious communities, including Buddhists, Jains, and Brahmins. Similarly, during the Gupta Empire, while Hinduism (Vaishnavism as well as Shaivism) flourished and received royal patronage, the rulers also demonstrated tolerance towards Buddhism and Jainism. The establishment of Nalanda as a prominent Buddhist learning center under Gupta rule and the depiction of Hindu, Buddhist, and Jain motifs in Gupta-era art exemplify this inclusive approach. Other rulers, such as Chandragupta Maurya and Samudragupta, also displayed religious tolerance and extended patronage to multiple faiths. The Kushan Empire, ruling over a diverse population, exhibited a remarkable degree of religious syncretism, with rulers patronizing Buddhism while also incorporating Hindu, Zoroastrian, and Greek deities into their pantheon.

While ancient Bharat was largely characterized by religious pluralism and coexistence, instances of religious conflict and persecution also occurred, though their extent and interpretation are subjects of scholarly debate. Sporadic tensions between different religious groups and accounts of persecution in certain texts suggest that the relationship between various religions was not always entirely harmonious.

Medieval Bharat: Navigating a New Religious Order

The medieval period in Bharat witnessed a significant shift in the religious landscape with the arrival of Islam, which spread through trade and conquest starting in the 7th century. The establishment of the Delhi Sultanate and later the Mughal Empire in northern Bharat brought a new religious and political order, leading to complex interactions between the newly arrived Islamic traditions and the indigenous Hindu, Buddhist and Jain communities. Hindu-Muslim relations during this era presented a diverse picture, ranging from peaceful coexistence and cultural exchange in some regions to periods of conflict and persecution in others.

The religious policies of the Delhi Sultanate towards its Hindu subjects varied considerably depending on the individual ruler. While some Sultans enforced discriminatory measures such as the Jaziya tax and the destruction of temples, others displayed relative tolerance and even incorporated Hindus into their administration. The Mughal Empire, particularly under the reign of Akbar, adopted a policy of religious tolerance that aimed to foster harmony among the diverse religious groups within its domain. Akbar abolished discriminatory taxes, encouraged interreligious dialogue, and even attempted to create a syncretic faith called 'Din-e-Ilahi'. His successors, Jahangir and Shah Jahan, largely continued this policy. However, the later Mughal emperor Aurangzeb reversed this trend, implementing more orthodox Islamic policies that included the reimposition of the Jaziya and the destruction of many temples and turning their ruins into mosques.

During the medieval period, the Sufi and Bhakti movements played a crucial role in shaping interfaith relations. Sufism, the mystical branch of Islam, emphasized universal love, tolerance, and a direct personal experience of the divine, attracting followers from diverse religious backgrounds. Similarly, the Bhakti movement within Hinduism promoted devotion to a personal god and advocated for social and religious equality, with many Bhakti saints emphasizing the unity of God and the importance of love and compassion, resonating with Sufi ideals. These movements fostered a climate of interfaith understanding and challenged religious exclusivism, contributing to a degree of syncretism in popular religious practices.

Despite these trends of tolerance and syncretism, the medieval period also witnessed religious persecution. Hindu temples were destroyed, and discriminatory policies were implemented by some Muslim rulers, particularly during periods of conquest or political consolidation. The extent of this persecution is a subject of everlasting historical debates. Jainism also faced challenges during this time due to the rise of Islam and the decline of patronage from Hindu rulers in some regions.

The Impact of British Colonialism: Reshaping Religious Identities and Introducing Secular Thought

British colonial rule in Bharat had a profound and transformative impact on the religious landscape, contributing to the reshaping of religious identities and introducing Western concepts of secularism. The British administration, for its own administrative convenience and informed by Oriental scholarship, often categorized the diverse Bharatiya population into distinct and sometimes rigid religious communities, primarily Hindu and Muslim. This act of categorization, along with the implementation of policies that sometimes favoured one community over another as part of their "divide and rule" strategy, deliberately fostered a stronger sense of separate religious identities and exacerbated communal divisions.

The British also introduced Western-style of education to Bharat, which drew the Bharatiya intellectuals back to basic tenets of philosophy like ideals of rationalism, humanism, and individual rights. These ideas influenced the emergence of reform movements within Hinduism and Islam, as educated Bharatiyas sought to reinterpret their religious traditions in the light of contemporary thought and to address social issues such as caste discrimination and the pitiable status of women. The colonial state itself adopted a policy of dodging religious issues but it was not always consistently applied in practice. Colonial secularism, in contrast to the situation in Britain with its established Church of England, ensured that the government in Bharat generally avoided direct endorsement or entanglement in the administration of local religions, often handing over the management of religious institutions to Bharatiya trustees; but interfering high-handedly when it served their imperial ends well.

A significant shift in the aforementioned stance came with the British codification of Hindu and Muslim personal laws. This process, which began in the late 18th century, however aimed to create a standardized legal framework for matters of marriage, inheritance, and other personal affairs based on religious texts and customs; ultimately for administrative and ruling over the masses' convenience. And in doing so, the concept of uniform family laws for the people was

totally sidelined again under the policy of "Divide and Rule". While intended to bring order and uniformity, the codification also had the effect of further solidifying religious distinctions within the legal system, creating legal distinctions based on religious identity that would continue in independent Bharat and still remains a subject of debate in relation to secularism.

Christian missionaries played a notable role during the British colonial period, engaging openly in "conversion for cash", while also establishing educational and healthcare institutions and advocating for social reforms. Their activities ironically led to religious debates and persuaded the influential Hindus and Muslims to raise voice for reformation of their own religious traditions in response to missionary critiques and the propaganda of superiority of Western knowledge and Christian morality.

Secularism in the Making: Debates during the Independence Movement and Constitutional Framing

The concept of secularism became a central theme in the discourse of Bharat's independence movement, championed by key figures who envisioned a unified and inclusive nation free from colonial rule. Mahatma Gandhi articulated a vision of secularism rooted in the principle of "Sarva Dharma Sambhava," emphasizing equal respect for all religions and their underlying moral unity. He believed that true secularism required addressing the socio-economic disparities that had often fuelled religious tensions and advocated for a culture of empathy and understanding between different faiths. Jawaharlal Nehru, Bharat's first Prime Minister was a staunch advocate of secularism as being essential for the unity and progress of a diverse nation. Influenced by Enlightenment ideals, Nehru envisioned a secular state that would be impartial in religious matters, protecting all religions but not favouring either one of them. He emphasized upon the separation of religion from politics and state affairs, viewing religion as a personal matter. Maulana Abul Kalam Azad, a prominent Congress leader, also advocated for secular nationalism, envisioning a Bharat where all religious communities could coexist peacefully with equal rights.

The issue of secularism was actively debated in the Constituent Assembly during the framing of the Bharatiya Constitution. While there was a general consensus on the need for a secular state to ensure equality and prevent discrimination based on religion, there were differing opinions on how this principle should be enshrined in the Constitution. Some members advocated for the explicit inclusion of the word "secular" in the Preamble, but it was eventually added later through the 42nd Amendment in 1976. Dr. B.R. Ambedkar emphasized that a secular state would not impose any particular religion but would respect the religious sentiments of all people.

The Constitution of Bharat, under Part III, guarantees the fundamental right to freedom of religion to all persons through Articles 25 to 28. These articles ensure the freedom of conscience, the right to profess, practice, and propagate religion, subject to public order, morality, and health. They also provide religious denominations the right to manage their own affairs and to establish and maintain religious and charitable institutions. Furthermore, the Constitution prohibits the imposition of taxes for the promotion of any particular religion and ensures freedom regarding attendance at religious instruction in certain educational institutions.

Secularism in Independent Bharat: Implementation and Evolution

Since its independence in 1947, Bharat has operated as a secular country, with the principles of secularism enshrined in its Constitution. The 42nd Amendment in 1976 explicitly declared Bharat a secular nation. However, the implementation of secularism in Bharat has followed a unique model characterized by state neutrality towards all religions and yet equal protection, unlike the strict separation between religion and the state in Europe and America. The Bharatiya State reserves the right to intervene in religious matters for social reform and the upholding of constitutional values. This is evident in the continued existence of personal laws based on religion and the state's partial financial support to certain religious institutions.

Landmark legal cases have significantly shaped the understanding and practice of secularism in independent Bharat. The Mohd. Ahmed Khan Vs. Shah Bano Begum case (1985)^[1] highlighted the complexities arising from the intersection of secular law and religious personal law, when the Supreme Court bypassed the Shariat laws and awarded maintenance to Muslim divorced woman under the Code of Criminal Procedure 1973. The S. R. Bommai v. Union of Bharat case (1994)^[2] explicitly affirmed secularism as a basic feature of the Constitution. Earlier, it was in the case of Bijoe Emmanuel and Ors. Vs. State of Kerala and Ors. case (1986)^[3] upheld the right to religious freedom and freedom of conscience. These cases, along with many others, demonstrate the judiciary's active role in interpreting and applying secular principles in a diverse and often contentious socio-religious landscape.

The legislature is not far behind in taking measures for the same. The Muslim Women (Protection of Rights on Marriage) Act 2019, which cast away the evil of Triple Talaq from over the Muslim women, 'Uniform Civil Code' by State Govt of Uttarakhand etc. are steps in the direction of promulgation of Bharatiya Secularism in the guiding light of the Constitution of Bharat. These are commendable steps taken by central as well as state governments, which must be carried forward by remaining state governments also, to spread the benefits nationwide.

In addition to all this, the popular slogan of the incumbent government "Vasudhaiva Kutumbkam", reflects the Bharatiya ideology of considering not just her own citizens of different religions as equal but the residents of whole world as one big family, thus celebrating the plethora of differences among the masses rather than taking steps for their persecution on those very differences, as is the propaganda forwarded by the critics of the development of Bharat.

However there have been seen some over-zealous yet low on knowledge actions by judiciary. The perfect example of the same was the case of Bharat Young Lawyers Association Vs. State of Kerala (Shabrimala Temple Entry Case, 2018)^[4] where it was held by 4:1 majority that entry of women of all ages must be permitted in the said temple premises. The court totally ignored the long standing as well as unique customs and practices of that particular temple and of other temples of deep cultural history and importance. It was only after huge backlash against the decision by the social and legal fraternity that the impugned judgement was stayed and sent to larger bench for review which is still under review.

The Court must understand a simple yet pivotal fact that any religious issue of any nature whatsoever would have a very high probability of protection as well as conservation under Article 25 of the Constitution of Bharat. Moreover, we have traditions and practices of innumerable count which cannot be done and dusted by Judiciary at its whim, in the name of modernity and adopting change with the times while ignoring the source of such purported and allegedly progressive change, foreign or domestic. It must also be kept in mind that Judiciary is neither skilled enough nor staffed appropriately to decide on deep seated meaning and relevance of religious practices and traditions.

Furthermore, Bharat is a diverse nation with innumerable customs, practices, etc. that change every 30 km. or so; and in that context, the court cannot force its own straight-jacket logic on

3.28 million sq. km. of land, people and most importantly our hugely diverse and rich cultural heritage, in the name of modernity, development and secularism.

Contemporary Debates and Challenges to Secularism in Bharat

Contemporary Bharat faces significant debates and challenges related to secularism. The rise of religious nationalism irrespective of any particular community, presents a major challenge to the established secular order. This has led to ongoing debates on minority rights, religious freedom and equality, as well as the role of religion in public life.

The politicization of religion for electoral gains and the rise of fundamentalism are also a source of trouble for the secular ethos of this great nation. The implementation of a Uniform Civil Code nationwide remains a contentious issue, highlighting the difficulties in reconciling secular principles with religious autonomy, despite the visible advantages of the same. The judiciary's role in interpreting and upholding secularism in the face of these challenges is also a subject of scrutiny, as highlighted with the case above.

The emphasis of Bharatiya model of secularism on equal respect for all religions and state engagement distinguishes it from the Western model's strict separation. The relevance and effectiveness of the Western model of secularism versus the Bharatiya model in addressing contemporary challenges is exponentially and unnecessarily hyped by some non-State actors within and outside Bharat, with covert motives relating to disturbing of social harmony in Bharat and making efforts to glorify the former while trying to demean the latter.

Conclusion: A Historical Perspective on Secularism's Enduring Relationship with Bharat's Religious Tapestry

A historical perspective reveals that the relationship between secularism and Bharat's religious landscape has been complex and evolving. Ancient Bharat, while deeply religious, exhibited significant instances of religious coexistence, interaction, and even syncretism under various rulers and empires. The medieval period brought new dynamics with the arrival of Islam, marked by periods of both tolerance and conflict. The British colonial era introduced Western concepts of secularism and actively distorted religious identities through its policies and administrative practices.

Independent Bharat adopted a unique model of secularism, characterized by state neutrality and yet equal respect for all

religions, while providing for state intervention in religious affairs for social justice. This model has withstood multiple challenges from various vested interests, repackaged by landmark legal cases and social movements advocating for religious freedom and equality; and is efficiently effective till date.

However, it is no reason to be complacent as there is always room for improvement in the sync with the changing times while always keeping the rich cultural ethos of Bharat in mind. As Bharat climbs up in world on the ladder of development, she is bound to be challenged by competitors in all manners possible. The social fabric of Bharat is also one of such targets. So, it's always better to be prepared for challenges beforehand when their existence is well anticipated; and also, the conservation of social harmony is the constitutional duty of the State and by the help of the indispensable tool called "secularism" it is very well manageable. Bharat must keep improving her biggest asset in the path of progress which is her demographic dividend and the social harmony and cohesion achieved via secularism is one of the most affordable ways of doing it.

References

1. AIR 1985 SC 945
2. AIR 1994 SCC (3) 1
3. 1986 SCR (3) 518
4. AIRONLINE 2018 SC 243