SECULARISM AND THE CRISIS OF SECULARISM IN A MULTI-RELIGIOUS SOCIETY: THE CASE OF POST-INDEPENDENT INDIA

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Introduction: Secularism in India

The objective of this article is to shed light on the Indian concept of secularism and its implications on the multi-religious, post-independent, Indian society. With the 42nd Amendment of the Constitution of India enacted in 1976, the Preamble to the Constitution asserted that India is a secular nation. Although India, in practice, was a “secular” nation since its Independence in 1947, it wasn’t officially written in the Constitution until the 42nd Amendment in 1976.

Secularism in India theoretically means “equal treatment” of all religions by the state. Unlike some Western concepts of secularism, like the French for instance, which envisions a separation of religion and state, the concept of secularism in India envisions acceptance of certain religious laws as binding on the state, and equal participation of the state in different religions.¹ The laws implicitly require the state and its institutions to recognize and accept all religions, and respect pluralism. According to Amartya Sen, an Indian economist, philosopher, Nobel laureate, and a strong advocate for the Indian concept of secularism, a secular state need not stay clear of religion but it must ensure a basic symmetry of treatment for all religions.²

Secularism as practiced in India, with its marked differences with Western practice of secularism, is a controversial topic in India. Supporters of the Indian concept of secularism, like Amartya Sen, claim it respects religious rights and recognizes the differences in culture. Sen argues that, “in this view, there would be no violation of secularism for a state to protect everyone’s right to worship as he or she chooses, even though in doing this the state has to work with and for religious communities. In the absence of asymmetric attention (such as protecting


the rights of worship for one religious community, but not others), working hard for religious freedom does not breach the principle of secularism.”\(^3\) Opponents, like Khilnani, a rationalist, argue that India’s acceptance of religious laws violates the principle of equal human rights, discriminates against women, especially Muslim women, allows unelected religious personalities to interpret religious laws, creates plurality of unequal citizenship, and most importantly “create riots, like the communal violence in Gujarat in 2002”\(^4\); they suggest India should move towards separating religion and state. These differences in opinion have led number of scholars to question the very concept of secularism and its stated intentions.

### Founding Fathers on Secularism

The Indian concept of secularism did not arise without intense ideological battles between some of the major founding leaders of the country in the pre-independent era. The leaders drew their views on a future secularist India based on their practicing beliefs and world views. Some of them, as will be discussed, are vital to understanding the shape of modern India.\(^5\)

**Jawaharlal Nehru:**

As an agnostic and a rationalist, Nehru visualized a secular democracy not in opposition to religion but aimed at the distancing of religion from public affairs. He had a rationalist and individualistic approach to religion, thinking of religion as something that impaired development

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\(^5\) The leaders selected in this section are purely based on representations from different religious beliefs and worldviews like Agnosticism (Nehru), Hinduism (Gandhi), Buddhism (Ambedkar), and Atheism (Ramasami). Although Sikhs and Christians were largely present in the pre-independent era, there were no Sikh or Christian leaders that involved, at the popular level, in the ideological battle with the major founders of the country.
in India. From the multicultural thrust of Nehru’s nationalism came the ideological matrix out of which the secular narratives of the nation were constructed. Nehru tried to provide a secular past for India in order to show that religious and cultural tolerance was at the bottom of Indian civilization. According to Prakash, Nehru promoted the idea of India as a “secular entity, not a Hindu nation that had cradled a variety of religions and sects through centuries, and had acquired a degree of unity while surviving conquests and conflicts. His discovery of India was a documentation of this unity through history; and for him the nationalist movement was designed to free this unity so that India could join the world-historical march towards modernity.  

The policy of the Congress party headed by Nehru was to create a vision of the equality of all religions. It could be summed up in the Sanskrit words *sarva dharma samabhavana*, which means that all religions should be treated equally. Nehru, believing that secularism was the sole basis for an integrated nation, said that secularism does not mean the “absence of religion, but putting religion on a different plane from that of normal political and social life. Any other approach in India would mean the breaking up of India.”  

In 1961, just a few years before his death, Nehru elucidated his view on secularism in the following terms: “we talk about a secular state in India. It is perhaps not very easy even to find a good word in Hindi for ‘secular.’ Some people think it means something opposed to religion. That obviously is not correct……India is a state which honors all faiths equally and gives them equal opportunities.”  

It is to be noted that Nehru never tried to define secularism in terms of the coercive policy making of an autocratic state.


8 Ibid., 330.
Mahatma Gandhi:

Most Hindus can see no problem in worshipping two deities at the same time. This polytheistic nature of popular Hinduism helps Hindus to be pluralists and open to other religions as well. Gandhi viewed secularism from a religious perspective. He believed that religion and the state are inseparable, that irreligiosity encouraged by the state leads to demoralization of the people and that, therefore, the State’s religious policy should be pluralistic with equal respect to all religions. Gandhi’s view of secularism differed from that of Nehru in not requiring religion to be removed from the public sphere, whereas this separation was essential for Nehru. Gandhi’s version of nationalism was the major non-secular alternative to the Nehruvian secular matrix. Gandhi believed that it was only through the recuperation of religion that India could truly enjoy emancipation from the colonizer.

Gandhi’s secularism was based on a non-violent idea of tolerance. For Gandhi, tolerance was a duty. He calls for a rethinking of tolerance in the light of his famous principle of *ahimsa* (non-violence) and *Satyagraha* (insistence on truth). For him, this is a form of self sacrifice by the majority for the sake of the minority. This Gandhian principle was deeply informed by his religiosity to the extent that his every action was influenced by his religion. In other words religion was a constitutive principle by which the worth of all worldly goals and actions could be judged. Gandhi believed that “no Indian who aspires to follow the way of true religion can afford to remain aloof from politics.”

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Bhimrao Ramji Ambedkar:

Dr. B. R. Ambedkar, Independent India’s first law minister and the principal architect of the Constitution of India, was one of the outstanding leaders of the freedom movement. As a convert from Hinduism to Buddhism, as one can imagine, Ambedkar campaigned against social discrimination against the *dalits* (untouchables), and the caste system, while also supporting the rights of women, and labor. Whereas Gandhi viewed secularism in religious terms, Ambedkar viewed secularism in political terms. He wanted untouchables to be classified as minorities and considered in the same regard as people of other castes.\(^\text{10}\)

The dichotomy in the positions held by Gandhi on the one hand, and Ambedkar, and representatives of other communities on the other was that the former had accepted the idea of separate representation for Muslims and Sikhs by way of concession. For them, the communal or minority question had nothing to do with the question of nationalism but it was one for nationalism to overcome. For the latter, the resolution of these questions was at the heart of the problem. It was the place that minorities would have in India that was at stake. How this was resolved was critical, for it would represent a statement about the very nature of what it meant to be “Indian.” Fundamentally, this debate was about the place that social difference would have in the context of an emergent Indian identity.\(^\text{11}\)


\(^\text{11}\) Ibid., 58.
Erode Venkata Ramasami:

As an atheist, Ramasami, famously called Periyar, saw secularism less as a political ideal or as a means to appease the religious but more as a desired social good. His views were based on rationalist discourses distilled in the Tamil word *pagutharivu*, the intelligence that is born out of discernment and experience, and could be used to examine one’s own context critically.\textsuperscript{12} Periyar propagated the principles of rationalism, self-respect, women’s rights and eradication of caste. He opposed the exploitation and marginalization of the non-Brahmin\textsuperscript{13} Dravidian people of South India and the imposition of what he considered Indo-Aryan India. Ramasami launched the self-knowledge and self-respect movement among the non-Barahmins of South India using the notion and practice of a “right to dissent.”\textsuperscript{14}

Religious freedom, Ramasami argued, was a tool to reify the Brahmin stranglehold over the downtrodden non-Brahmin majority. What Ramasami perceived as enshrining the status quo and intensifying conflict, Gandhi saw as ensuring religious neutrality and neutralizing conflict. There is, however, a discontinuity, between Ramasami’s means (such as breaking images of popular gods) and the religious practices of the majority. Not surprisingly, he was unsuccessful in his campaigns.


\textsuperscript{13} Brahmins are a people group in India that is considered by the Indian Caste System to belong to the upper caste.

\textsuperscript{14} Vasantha Kandasamy, ed. *Fuzzy and Neutrosophic Analysis of Periyar’s View on Untouchability* (American Research Press, 2005), 104.
Issues under the Indian Concept of Secularism

Relationship between the State and Religious Institutions:

The 7th schedule of Indian Constitution places religious institutions, charities and trusts into the so-called Concurrent list,\(^\text{15}\) which means that both the central government of India, and various state governments in India can make their own laws about religious institutions, charities and trusts. If there is a conflict between the central government enacted law and the state government law, then the central government law prevails.\(^\text{16}\) The overlap of religion and state, through Concurrent List Structure, has given various religions in India, state support to religious schools and personal laws. This state intervention while resonant with the dictates of each religion, are unequal and conflicting. For example, a 1951 Religious and Charitable Endowment Indian law allows state governments to forcibly take over, own and operate Hindu temples, and collect revenue from offerings and redistribute that revenue to any non-temple purposes including maintenance of religious institutions opposed to the temple.\(^\text{17}\)

Indian law also allows religious schools to receive partial financial support from state and central government of India, to offer religious indoctrination, if the school agrees that the student has an option to opt out from religious indoctrination if he/she asks, and that the school will not discriminate any student based on religion, race or other grounds. Educational institutions wholly owned and operated by government may not impart religious indoctrination, but religious sects

\(^{15}\) The Concurrent List or List-III (Seventh Schedule) is a list of 52 items given in the Seventh Schedule to the Constitution of India.


and endowments may open their own school, impart religious indoctrination and have right to partial state financial assistance.\textsuperscript{18}

Relationship between State Law and Personal Law:

In matters of personal law, such as acceptable age of marriage for girls, female circumcision, polygamy, divorce and inheritance, Indian law permits each religious group to implement their religious law if the religion so dictates, otherwise the state law apply. In terms of religions of India with significant populations, only Islam has religious laws in the form of sharia which India allows as Muslim Personal Law. Religious laws in personal domain, particularly for Muslim Indians, supersede parliamentary laws in India; and currently, in some situations such as religious indoctrination schools the state partially finances certain religious schools. These differences have led a number of scholars to declare that India is not a secular state rather it is a strategy for political goals in a nation with a complex history, and one that achieves the opposite of its stated intentions. A perfect example of the relationship between state law and personal law can be found in the Shah Bano case.

\textit{The Shah Bano Case (Mohd. Ahmed Khan vs Shah Bano Begum)}:

In 1978, the Shah Bano case brought the secularism debate along with a demand for uniform civil code in India to the forefront.\textsuperscript{19} Shah Bano was a 62 year old Muslim Indian who was divorced by her husband of 44 years in 1978. Indian Muslim Personal Law required her husband to pay no alimony. Shah Bano sued for regular maintenance payments under Section

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125 of the Indian law. Shah Bano won her case. Along with alimony, the Chief Justice of the Supreme Court of India wrote in his opinion just how unfairly Islamic personal laws treated women and thus how necessary it was for the nation to adopt a Uniform Civil Code. The Chief Justice further ruled that no authoritative text of Islam forbade the payment of regular maintenance to ex-wives.20

The Shah Bano ruling immediately triggered a controversy and mass demonstrations by Muslim men. The Islamic Clergy, and the Muslim Personal Law Board of India, argued against the ruling. Shortly after the Supreme Court’s ruling, the Indian government enacted a new law which deprived all Muslim women, and only Muslim women, of the right of maintenance guaranteed to women of Hindu, Christian, Parsees, Jews and other religions. Indian Muslims consider the new 1986 law, which selectively exempts them from maintenance payment to ex-wife because of their religion,21 as secular because it respects Muslim men’s religious rights and recognizes that they are culturally different from Indian men and women of other religions. Muslim opponents argue that any attempt to introduce Uniform Civil Code, that is equal laws for every human being independent of his/her religion, would reflect majority sensibilities and ideals.

The Caste System and the Idea of Tolerance:

The caste system in India is a system of social stratification22 which has pre-modern origins, was transformed by the British government, and is today the basis of reservation in

20 Vrinda Narain, Reclaiming the Nation: Muslim Women and the Law in India (University of Toronto Press: Toronto, 2008), 123-24.

21 Ibid., 126.

India. New developments took place after India achieved independence, when the policy of caste-based reservation of jobs was formalized with lists of Scheduled castes (Dalits) and Scheduled Tribes (Adivasis). Since 1950, the country has enacted many laws and social initiatives to protect and improve the socioeconomic conditions of its lower caste population. These caste classifications for college admission quotas, job reservations and other affirmative action initiatives, according to the Indian law, are based on heredity and are not changeable. Discrimination against lower castes is illegal in India under Article 15 of its constitution, and India tracks violence against Dalits nationwide.23

The problem, however, is not in the provision of protection or encouragement to the lower caste population, as suggested by Gandhi and the Constitution; rather it is in the very aspect of considering them as low class citizens. The prominence of caste identity is a reflection of how Hinduism is so deeply ingrained in the very heart of the Indian society, and how much influence it had on defining Indian secularism. The caste system is derived from the regressive order of the sanatana dharma (eternal set of duties or religiously ordained practices incumbent on all Hindus) of the varnas (class system), which existed in the vedic society.24 Gandhi urged his countrymen to live with tolerance and respect the untouchables, while believing in the varna system himself.

Can tolerance, as advocated by Gandhi, really be a substitute for secularism? Tolerance always implies a negation, as Ambedkar rightly argued against Gandhi25, for in the toleration of


25 Aleyamma Zachariah, Modern Religious and Secular Movements in India (Theological Book Trust, 1998), 280-81.
the minority the majority may breach the boundaries of inclusiveness by patronizing the other, so emphasizing their otherness. Tolerance needs to be deconstructed, since at the bottom of the term there is something intolerable, namely the option to not tolerate. In a society where tolerance is exercised there exists a lack of reciprocity where one is the giver and the other the receiver; thus tolerance comes to be seen as a liberty granted rather than as a right.

Religious Fundamentalism:

The rising tide of religious fundamentalism has called our attention to this menace of suffering imposed in the name of ideology. In the Indian context Hindu nationalism offers an example of this. In the past twenty to twenty-five years some Hindus have become politicized and exploited for political ends thus threatening Indian secularism, which, for about forty years since independence, has largely produced a peaceful co-existence between faiths. Although Hindu nationalism (Hindutva) in India should be understood within the larger context of the struggle and debate over the secularism of the postcolonial Indian state, its origin can be traced to the colonial time itself. After independence, secularism was understood as a constitutional principle without really transforming the then prevailing communal circumstances, and this inaugurated communalism’s continuation. This growth of fundamentalism was intensified when the Indian National Congress lost dominance and the Bharatiya Janata Party (BJP), a Hindu nationalist party, rose to power. Hindu nationalism is aimed at awakening the Hindu nation and resurrecting India in order to control minorities. Its activities culminated in the pulling down of the mosque in Ayodhya on December 6, 1992. This action raised further questions in the minds of many regarding the secular nature of India.26

Islamic Feminists and Women’s Rights:

Sylvia argues that Islamic Feminist movement in India claims that the issue with Muslim Personal Law in India is a historic and ongoing misinterpretation of the Quran. Accordingly, the feminists claim Quran grants Muslim women rights that in practice are routinely denied to them by male Muslim ulema in India. The patriarchal interpretations of the Quran on the illiterate Muslim Indian masses are abusive, and they demand that they have a right to read the Quran for themselves and interpret it in a women-friendly way. India has no legal mechanism to accept or enforce the demands of these Islamic feminists over religious laws. Some religious rights granted by Indian concept of secularism, which as abusive against Indian women, include child marriage, polygamy, unequal inheritance rights of women and men, extrajudicial unilateral divorce rights of Muslim man that are not allowed to a Muslim woman, and subjective nature of shariat courts and religious qazis who preside over Islamic law matters.

Threat of De-Secularization:

The threat to Indian secularism is not only from religious fundamentalist groups, but also from excessive secularism, which threaten to produce the phenomenon of de-secularization in India. In particular, the failure to appreciate the limits of rationalization fuelled by the ideology of secularism worries the modernizing Indian society. Both of these changes are a challenge to Indian secularism. On the one hand, there is its secular nature with its freedom of religion and on the other hand this is threatened by the rising tide of fundamentalism and by the threat of de-secularization.

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Conclusion: The Crisis of Secularism in India

India does not have an official state religion. The people of India have religious freedom, and the state treats all individuals as equal citizens regardless of their religion. In matters of law, however, the applicable code of law is unequal, and India’s personal laws – on matters such as marriage, divorce, inheritance, alimony – varies with an individual’s religion. Muslim Indians have sharia-based Muslim personal law, while Hindus, Christians, Sikhs, and other non-Muslim Indians live under common law. The attempt to respect unequal, religious law has created a number of issues as discussed above. The crisis of secularism in India, as discussed above, could either stem from the inclusion, exclusion and contradictions of official nationalist imaginings induced by identitarian religious conflict, as suggested by scholars like Anuradha and Rajeshwari, or it could be inherent in the very concept of secularism, as argued by Nandy. Indian secularism was supposed to achieve several goals: a) unify a heterogeneous nation; b) offer religious freedom and protection to minorities; and c) set the nation on a modern path to progress. The latter two goals never took off because of factors rooted in the nation’s constitution-making history, particularly in the definitional tussles, as discussed above, on who was a minority and what benefits they ought to have. All of this has brought about a form of identity crisis among the minority populations of India. Thus the key issue for the Indian concept of secularism is: how can Indian secularism absorb religion as the distinguishing factor of identity both of the majority and of the minority? How is India going to maintain its secular nature and keep space for every religion? These are practical, unresolved questions strangling the neck of the Indian concept of secularism.


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