



**PARADIGM SHIFT IN RELIGION
WITH RESPECT TO HISTORY,
SOCIOLOGY, AND LAW**

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Abstract

This paper focuses on religion and its aspects related to History, Sociology and Law. Religion; a social institution that has always attracted the inquisitive nature of humankind. It also talks about the neoterically phenomenon but rather an unknown and dateless beginning. The institution of religion is universal and is found in all societies, past and present; however, considering the multidimensional aspect of religion, customs and practices may vary. Laws, customs, conventions, fashion, etc., are not the only means of social control; Religion and morality, which are the most authoritative forces in society and the most effective guides of human conduct, override and influence all of them.

It must be realised that the rise of contemporary civilisation has impacted religion, its roles, and people's religiosity. Developments in science, technology, education, and economic situations, among other things, have had a significant impact on religion and its traditional roles; in fact, it is one of the reasons why we have evolved some rationality regarding the issue.

Concerning India, “*there is a growing trend towards secularism and secularisation today*”. Talking about the neoteric era, it is to be noted that the old “nationalist” discourse has lost its legitimacy and hence the capacity to converse the “Communal forces” Bibekbrata Sarkar in *Secularism: The Search for a Theory* has very well pointed out that: The old idea of nationalism is itself facing problems, and an attempt has been made by the Bharatiya Janta Party to redefine it in terms of Hindutva.

This paper begins by unfurling pages from the past, the ideologies, further moving ahead goes on to explain the Sociology of Religion, most importantly it also talks about the interpretation of the law according to the Indian Constitution and the Judiciary. Finally, moving on to Secularism.

Keywords: Religion, Customs, Secularism, Communal Forces.

Introduction :

The Bible, The Quran, The Bhagwat Gita all exemplify various notions of religion and connotes secularism in their way but leads all to the same thing that humankind wants to secure. There have been multiple interpretations by multiple priests, maulanans, sages, and the saints, so this research article required an in-depth study into different concepts entrusted within the texts, the books, the case commentaries, and various writings by various eminent people.

As societies become more modern, the need for and power of religion begins to decline. Depending on whose perspective you are putting your heads together, there could be several justifications for this, but it can in



many ways be attributed to rationality. For example, 500 years ago, there existed many natural phenomena that people could not explain, and they turned to religion for answers. However, as the field of science and technology intumesced and provided solutions outside of a religious context, the attribution of divine intervention in the human world began to lose its eminence.

Unfurling Pages from the Past

The Ancient Indian thought is reflected in *The Gita, The Ramayana, Vedas, Upanishads*, and various writings by various scholars. An in-depth study into these texts shows how society has undergone a social transformation. “*Kautilya’s Arthashastra (Mauryan Age, 322-185 B.C.) overrode religious considerations to serve the cause of state and attempted to emancipate the state from the influence of theology by holding that religious norms should be subordinate to rational law*”;¹ “The Satvahanas”, “Kushanas”, “Chalukyas”, “Rashtrakutas”, “Hoysalas”, “Cholas”, Gupta monarchs treated all religions equally and without discrimination. India's religious affairs changed with the invasions of foreign rulers, with the Delhi Sultanate becoming prominent in the 12th century A.D. and Mughals gaining power in the 16th century; there was a significant change in the societal norms, culture, and matters related to religion. Mughal Emperor Akbar attempted to reinforce religious freedom on the footing of equality.² However, with the British invasion of India, religion began to be used as a

dissevering factor. “*Bipan Chandra*” thus mentions that “communalism was one of the by-products of colonialism.”³

Sociology of Religion

Man is a religious or spiritual entity as well as a social animal. Economic initiatives, political activities, property deals, educational duties, ideological fervour, scientific innovations, and creative advancements have been impacted and conditioned by religious dogmas.⁴ Undoubtedly, religion, an important social institution of human civilisation, has served specific constructive roles, promoting communal cohesion (Durkheim) and providing inner individual serenity and consolation (Edward Sapir). Thus, the significance of this particular institution cannot be undermined. But by just looking at these manifest positive functions of religion, one should not jump to the conclusion that religion brings man only advantages; it has, on the contrary, many dysfunctional aspects. *Benjamin Kidd, Gillin, Karl Marx, Thomas F. O’Dea, and Sumner and Keller* have pointed out various religious dysfunctions. Religion is faithfulness based on the belief or actuality that can be true as well as false. But according to the author, based on multiple readings, findings and immense research, “*We cannot question God’s Existence.*”

“*The persistence of religion throughout the ages very much impressed Sumner and Keller as proof of its survival value.*”⁵ It has provided indisputable services to humankind

¹ Book 1, Kautilya, Arthashastra, 3 (Chapter 3, Book 1)

² 11th Edition, Ishwar Bhat, Law & Social Transformation, 234-236 (11th Edition, 2020)

³ Ibid

⁴ 7th Revised Edition C.N. Shankar Rao, Sociology: Principles of Sociology with and Introduction to Sociological Thought, 412 (2015)

⁵ Samuel Koeing, Sociology, 126



and continues to do so. Moreover, like other institutions, religious organisations have their roots in particular human needs, according to scientific researchers. As a result, it was deemed vital and continues to remain so.⁶ What kind of religion should we practise? What types of worship are permitted? What type of ritual system is required? In a nutshell, what type of religion is worth creating and preserving? - These are philosophical concerns rather than sociological or legal ones. They are questions about values.

When one tries to respond to them, the response becomes subjective. As a result, sociologists provide no answers for them; instead, they recommend that any religion, for that matter, should adapt to changes in living situations. The more it is tailored to current conditions and knowledge, the more likely it is to benefit as an institution.

Tolerance and universal acceptance were emphasised by socio-legal reformers such as "*Swami Vivekananda*" and "*Raja Ram Mohan Roy*." Gandhiji has very well pointed out that "*The Allah of Islam is the same as the God of Christians and the Ishwara/Bhagwan of Hindus. Even as there are numerous names of God in Hinduism, there are many names of God in Islam or another religion. The names do not indicate individuality but attributes, and little man has tried in his humble way to describe mighty God by giving Him attributes. However, He is above all attributes, Indescribable, Immeasurable.*"⁷

⁶ 7th Revised Edition C.N. Shankar Rao, Sociology: Principles of Sociology with and Introduction to Sociological Thought, (2015)

⁷ "Light of India or Message of Mahatmaji by M. S. Deshpande (available at: <https://www.mkgandhi.org/religionmk.htm> last accessed on 9/06/2021)"

The concept of Secularism and The Judicial Aspect of Right to Freedom of Religion in India

The debate over the definition of the term secular in the Indian context has been contentious. Some say that the Western environment from which the term "*secular*" was derived differs from what we have in India. The upshot of the conflict between the State and the Church in the West resulted in the separation of the two; the State was to control secular concerns, while the Church was to decide on religious ceremonies and other things. In India, secularism emerged due to nationalist forces against joint movements seeking to utilise religion for political reasons and divide the new nation along religious lines.⁸

The focus of constituent assembly remarks ranged from a strict wall of separation to the equitable treatment of all religions. The constituent assembly rejected "*Professor K.T. Shah's*" motion to establish that the state shall have no connection with any religion, creed, or faith and shall maintain an attitude of total neutrality.⁹ The overwhelming opinion in the Constituent Assembly was that the state is neither anti-religious nor irreligious, but that it should not associate with any specific religion, which was also emphasised by "*Lakshmi Kant Maitra*", "*Ananthasayanam Ayyangar*", and "*Jawaharlal Nehru*".

Part III of the Indian Constitution provides affirmation to "*freedom of religion*" (*Article*

⁸ "Bipan Chandra, Mridula Mukherjee, Aditya Mukherjee, India Since Independence, 60 (Revised and Updated, 2019)"

⁹ Constituent Assembly Debate, Vol VII, 815-16 (3-12-1948)



25-28). This right is granted not only to Indian nationals but also to anybody who dwells in India. The language of “**Article 25**” makes this quite evident.¹⁰, which states that “*Subject to public order, morality and health and the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.*”

To summarise, the Indian perspective on religious freedom upholds the state's non-intervention in religious affairs, with the only authorised involvement limiting to subject's incidental to religion. This is a skeleton model of Indian secularism, and how it works when life and blood are pumped into it is a continuous observation.

Beyond the wall of separation or irrelevance of religion (“*dharma nirpekshata*”) approach, its basic or stable terrain consists of equal regard and treatment of all faiths and dedication to tolerance (“*Sarva dharma sambhava*”) together with other constitutional ideals.¹¹

Article 25 covers not only religious beliefs that are related to various and respective doctrines but also religious practices that are related to various traditions. Furthermore, these rights apply to all people, citizens and non-citizens alike. However, appropriate constraints on citizens' fundamental rights and the central government/state government are applied when mandatory measures may interfere with people's religious concerns.

The term ‘**Secular**’ was introduced to the “*Preamble of the Indian Constitution by the*

42nd Amendment Act” to reinforce the country's secular fabric. It was also a requirement that the Secular character of the Indian Constitution is accepted. The democracy functions like one blade of a scissor, and the Constitution functions like another; secularism is a fundamental aspect that any act cannot change. In “**Bommai Case**”¹², the “*Hon'ble Apex Court of India upheld the validity of Secularism as the basic feature of the Constitution*”.

Secularism over Religion:

Secularism is frequently divided into two categories: positive and negative. The Western understanding of secularism is a negative idea of secularism. It denotes a complete separation of religion (the church) and state (the politics). In India, when the society is multi-religious, the negative idea of secularism is inapplicable. India exemplifies the excellent notion of secularism. The Indian Constitution includes the positive concept of secularism: equal respect for all religions or equal protection for all religions.

A secular state is intended to be unconcerned with individual beliefs and to ensure that everyone has religious freedom in their personal lives. However, the nature and character of secularism vary according to the situation. As a mainly Hindu and profoundly religious nation, India has its taste of secularism. On the one hand, the Indian Constitution guarantees personal liberties. It declares the state of being secular, but on the other hand, it contains contradicting signals of anti-religious intentions and the dominance of Hinduism. This ambiguity

¹⁰ Constitution of India, 1950

¹¹ 11th Edition P. Ishwar Bhat, Law & Social Transformation, 232 (2020)

¹² AIR 1994 SC 1918



allows Hindutva to be promoted under the guise of secularism. As populism and narrow nationalism appear to dominate the domestic political front in India and numerous other nations across the world, it becomes unlikely, if not impossible, for secularism to replace religion as the fundamental paradigm of life in India. And, given India's history of communal violence, this situation poses a threat not just to minorities and weak and moderate Hindus but also has far-reaching implications for the region and the globe. With this setting in mind, this article examined the treatment of Muslims in India, which is the country's most significant minority and has the third biggest Muslim population.

Historically, during India's independence movement, the “*Indian National Congress (INC)*”, in contrast to the “*All India Muslim League (AIML)*”, which was striving for independence based on two-nation theory¹³, organised its campaign for freedom within the framework of United India under the slogan of Indian Nationhood. As a result, the reference point for AIML was religion, notwithstanding Congress's assertion that it was devoid of any religious identity.¹⁴

In the provided setting, it is also well known that, although the Muslim League was a party made up of Muslims, the Congress was made up of Muslims and other religious minorities and the majority of Hindus.¹⁵

As a result, it was not only reasonable for the Congress but also imperative for its survival (with so many non-Hindus in its ranks) to maintain its public stance and call India a secular state rather than a Hindu one, even though Hindus were in an overwhelming majority in the nation.

Conclusion:

Indian nationalism and Indian secularism are attempts to reconcile with heterogeneous India. They both attempted to unify India's many ethnic groups and faiths by forging a common identity: Indianness. For the sake of the country's unity, Indianness was backed up by an Indian type of secularism. They were both designed for ensuring the harmonious coexistence of India's many religions and ethnic groupings. Other Indian nationalisms rejected the concept of imagined Indianness. This may be observed in the way the Indian state alienated itself from Indian society when it attempted to unite the many communities under the state. In a way that communities could not accept, Indian secularism rejected the role of religion in everyday life situations. A significant part of Indian nationalism was the promise of a modern India with economic prosperity and citizen well-being.

India is a one-of-a-kind country that believes in secularism while conserving its spirituality

¹³ “Two Nation Theory was best put in words by Muhammad Ali Jinnah, through his letter to M. K. Gandhi dated September 17, 1944” “*We maintain and hold that Muslims and Hindus are two major nations by any definition or test of a nation. We are a nation of hundred million and what is more, we are a nation with our own distinctive culture and civilization, language and literature, art and architecture, names and nomenclature, sense of values and proportions,*

legal laws and moral codes, customs and calendar, history and tradition, and aptitude and ambitions. In short, we have our own outlook on life and of life. By all cannons of international law, we are a nation.”

¹⁴“Dietrich Reetz, “Ethnic and Religious Identities in Colonial India (1920s-1930s): A Conceptual Debate,” *Contemporary South Asia* 2(2), 1993: 109-123”

¹⁵ Ibid.



via constitutional provisions, law, State policy, and judicial declarations.

The basic features of religion-state relations in India are maintaining a rational balance between secularity and religiosity, accommodating religious sensitivities of the people to a reasonable extent, avoiding religion-based discrimination among citizens as much as possible, and endeavouring to put them on a par regardless of religious affiliation. Both God and Caesar have a position in the country's constitutional and legal framework, but the scope of "what belongs to God" remains greater in India than in most other professedly secular states.

