
IS FREEDOM OF RELIGION AND SECULARISM BALANCED UNDER THE INDIAN CONSTITUTION?

Ritesh Raj V K, LL.M, School of Excellence in Law, The Tamil Nadu Dr Ambedkar Law
University, Chennai

ABSTRACT

The phrase 'secular' means non-religious. 'Secularism' values life without religion. Western secularism separates state and religion and forbids state intervention with religion. The state is neutral toward all religious organizations in Indian secularism, although not necessarily separate. Secularism in India means no official religion, no religious discrimination, and equal religious freedom for all. State neutrality, non-discrimination, and religious freedom are insufficient; religious tolerance essential. This is not about 'achieving secularism'. Since Indian society is secular, it is about protecting and managing secularism through systems. The State's proactive participation is important. State mechanisms must encourage religious fraternity and tolerance. Not one community coexisting. Building brotherhood requires coexisting and valuing each other. The State must take initiatives to promote religious tolerance and fraternity, which cannot be forced.

This paper examines the constitutional philosophy and ideals of religious freedom that led to secularism, which promotes fraternity and harmony among the people, and the State's journey from secularism to fraternity and unity and integrity.

CHAPTER – 1

“Religion must be a matter of principles only. It cannot be a matter of rules. The moment it degenerates into rules, it ceases to be a religion, as it kills responsibility, which it and essence of the true religious act”

-Dr. Bhim Rao Ambedkar

Introduction:

For ages, religion has played a vital part in all human communities. Religion, religious organizations, and religious rituals are such powerful forces that they have been utilized as a tool of social control. Since ancient times, institutionalized religion has been operated as a holistic authority that the state respects. It is clear that religion, religious rituals, and religious institutions are seen as collectively greater authority. The term "secularism" comes from the Latin word "saeculum," which means "of a generation, belonging to an age".¹ Previously, the term secular was not associated with religion.

The term originated in late medieval Europe, where the government had little role in things pertaining to religious beliefs or practices. The term "secularism" dates back to the eighteenth century,² when it was coined by British reformer George Jacob Holyoake. However, there is no commonly accepted definition of secularism.

In general, the term "secular" is understood as opposed to "religious," and in a political context, the term "secular state" can and has taken on diverse connotations in many nations depending on the historical and social context, political philosophy, and perceived needs of a given nation.

The French scholar Jean Bauberot provides a simple description that accurately explains the term 'secularism'. Andrew Copson translated the term and stated that "A secular society, according to Bauberot, contains three major components:

1. Separation of religious and state institutions.
2. All persons have the right to free conscience, which is limited only by the necessity for

¹ Susan Bilynskyj Dunning, 'Saeculum' (OCD Online, DOP November 2017) accessed 02 May 2022.

² Steven Conn, 'Secularism, Past and Future' (Origins.OSU.EDU)

public order and the respect for the rights of others.

3. The state will not discriminate against anyone based on their beliefs."

In the Indian context, Dr. S. Radhakrishnan has expressed it as "We believe that no religion should be given the preferential status of unique distinction..." No group of citizens shall claim rights and benefits that it denies others. No one should be disabled or discriminated against because of his faith, and everyone should be allowed to participate fully in common life.... This definition of secularism aligns with India's traditional religious traditions.³

The Supreme Court of India defines "secularism" as religious tolerance and equal treatment for all religions. This concept distinguishes between divine and human law. When a state claims to be secular, it means it separates human law from its religious and moral foundations.

The Supreme court of India has declared that **"although the Idea of secularism may have been borrowed in the Indian constitution from the west, it has adopted its own unique brand of secularism based on its particular history and exigencies"**.⁴ Secularism has profound roots in Indian society, dating back to ancient times. Religious beliefs have had a significant impact on people's lives in our country from ancient times.

Our ages-old traditions, such as the Upanishads, presented the philosophy of "Sarva Dharma Sambhava," which Dr. Morale and Dr. Pawar define as "respect for all belief systems." Dr. Morale and Dr. Pawar believed that the basic quality of "Sanatan Dharma" was what had kept India together and made the country religion-neutral, despite the fact that India had never been a mono-religious society.

India is multi-religious and multi-cultural due to its lengthy history. Chandragupta Maurya, Ashoka, Harsh Vardhan, the Mughals, and colonial periods all patronized numerous religions. Ellora cave temple, built between the 5th and 10th centuries, shows how many religions may coexist and be honoured. From Aryans to Mughals, these invasions, battles, and incursions shaped our religious and cultural diversity. Indian society may be the most "multicultural" and "multi-religious civilization".

³ Bipin Chandra, *India after Independence* (1st edition, Murari Lal & Sons Publications, 2009) 49.

⁴ 5S. R. Bommai v. Union of India, (1994 3 SCC 1).

Religious freedom is a recognized human right under the "Universal Declaration of Human Rights."⁵ It is crucial that Article 18 states that "Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, worship and observance".⁶ Furthermore, "the International Covenant on Civil and Political Rights" protects all individuals "the right to freedom of thought, conscience, and religion" via its critical Article 18. It is an innate human right that allows an individual to worship any god he chooses.⁷

Individuals in India are guaranteed "religious freedom" as fundamental rights under Part III of the Indian Constitution. Articles 25 through 28 allow for the "right to religion" to persons, which indicates that they confer rights not only on citizens but also on individuals. As a result, both citizens and non-citizens have the "right to religion". Furthermore, **Articles 15 and 16** address religious discrimination, stating that no one shall be discriminated against because of their religion.

The right to exercise religion is not absolute. Its social interests are limited. Religious freedom rights are limited to ensure everyone can enjoy them within reasonable limitations. States maintain social order and harmony when individuals/religious organizations violate religious freedom of other faiths.

The question remains whether those limits are fair, how much limitation is warranted, and whether the state's involvement is pointless. The supreme court stated in "St. Xavier's College v. the State of Gujarat" that "India is a secular state; secularism removes God from state matters and ensures no religious discrimination."

If the state unreasonably intervenes through its various powers in individuals' religious freedom rights or in any religious matter that threatens India's secular character and clashes with the individuals, the Indian Judiciary must settle the dispute amicably and peacefully while considering all parties' beliefs/sentiments. Our country is famed for its religious diversity, as it is the birthplace of Hinduism, Buddhism, Sikhism, and Jainism. India is renowned as 'The Land of Spirituality and Philosophy' because religion is so vital to our culture.

⁵ The Constitution of India Act 1950, Art. 25, 26 and 29

⁶ The Constitution of India Act 1950, Art. 15.

⁷ The Universal Declaration of Human Rights 1948, Art 18 & International Covenant on Civil and

In the *S. R. Bommai* case, the Supreme Court ruled that "secularism" is part of the constitution's "Basic Structure." Justice Ramaswamy noted that "secularism does not imply anti-God, and it is sometimes necessary to remain in a free society." Secularism represents faiths that arose from the exercise of rational powers. It helps people recognize the critical criteria for human progress in all areas, as well as cultural and social advancement, and, ultimately, human survival. Indian secularism prioritizes equitable treatment of all religious groups and promotes religious tolerance, in addition to improving material conditions and liberating the human spirit from ignorance, suppression, irrationality, injustice, fraud, hypocrisy, and oppressive exploitations.⁸

A recent survey found that 79.8% of India's population is Hindu, 14.2% Muslim, and 6% Christians, Sikhs, Buddhists, and Jains. Hindus make up the bulk of our people, but Hinduism is not privileged. Dr. S. Radhakrishnan's "Recovery of Faith" describes secularism in India: "No religion should be favoured. Religious impartiality, sometimes called comprehension and forbearance, is important in national and worldwide society."

In India, the lack of a state religion ensures that all religions have equal chance, acknowledgment, and protection. However, due to many obstacles in the country, practicing religious liberty becomes harder, and all of these obstacles pose a significant danger to the country's secular foundation.

The enmity between the communities, mostly Hindus and Muslims, has grown to the point where there are more cases of communal violence, mob lynching, and hate speech against other religions. This hostility has claimed the lives of so many innocent people and is growing deeper by the day. It is critical that these communities recognize that such hostility is stifling India's progress.

The specific conditions that exist in contemporary India present challenges to the concept of secularism, and as a result, the term 'secularism' has not achieved its precise and purest meaning. All of these barriers pose a challenge to a country's secular structure, putting religious freedom rights at risk.

⁸ *S. R. Bommai v. Union of India*, (1994 3 SCC 1).

1.2 RESEARCH PROBLEM

The 42nd Amendment Act of 1976 adds "secularism" to the Constitution, but its true meaning is not commonly accepted. India is known as the world's most diverse country for its "varied cultures" and "vast diversity". India has no official religion and many Fundamental Rights protect Religious Freedom. Despite guarantees and frameworks, the Constitution's basic goal remains unfulfilled. The country's secular character is threatened by communal violence, as seen in the Ayodhya Dispute, Moradabad riots, Nellie Massacre, Anti-Sikh riots, Gujarat riots, Bhagalpur violence, Godhra killings, and recent West Bengal violence.

In addition, the nine state assemblies' anti-conversion laws (U.P., Rajasthan, Gujrat, M.P., Chhattisgarh, Odisha, Arunachal Pradesh, Uttarakhand, and Jharkhand) based on societal interest threaten religious freedom rights.

Additionally, the government's excessive interference in personal laws and practices restricts religious freedom. Though India is widely acknowledged as a secular state, secularism is not settled. Many factors, including as party politics, communalism, and religious fundamentalism, continue to threaten the goal of 'Secularism'.

1.3 Hypothesis

Because of political, cultural, and religious barriers in India, the term secularism has yet to take on its full meaning. Secularism and religious freedom have received less attention due to the variety of reasons and unique conditions that exist throughout the country. In India, secularism exists solely in the formal sense, not in the substantive sense. The parliament is required to develop policies and legislation that promote secularism in all aspects of public life.

1.4 RESEARCH QUESTIONS

1. Is the Indian Constitution secular in nature?
2. What method is enshrined in the constitution to encourage secularism?
3. What are the most common criticisms of India's secularism?
4. Are there any concerns or threats to religious freedom and secularism in contemporary India?

1.5 Research Methodology

The researcher has used a doctrinal research approach to do research on this topic. The research will examine both primary and secondary sources of information relevant to the research subject. Case laws, Acts, policy documents, constitutional assembly discussions, and so on are examples of primary sources of content, whereas secondary sources include textbooks, journals, and online material. The approach adopted in this study is consistent with the research problem, objectives, and questions.

1.6 SCOPE AND LIMITATIONS OF RESEARCH

The goal of this study is to gain a fundamental understanding of secularism in India. "The Constitution of India" provides many protections to the concept of religion, although the country's secular nature is threatened by a number of contemporary difficulties and challenges. In this study, the researcher will emphasize the challenges and attempt to solve them. As a result, in order to perform current Doctrinal Research, the researchers would prefer to use a variety of primary and secondary documents, reports, articles published in journals and newspapers, and online information available on websites.

1.7 PURPOSE OF THE RESEARCH

1. The purpose of the suggested research is to generate the idea of secularism.
2. To trace the historical context of secularism in India.
3. Understand the provisions of the constitution in respect to secularism in India.
4. To examine and analyse the challenges faced by secularism in modern India.
5. To provide potential solutions and proposals for overcoming the challenges that secularism faces in modern India.

1.8 Literature Review

- **"J. M. Shelat, Secularism: Principles and Applications, N. M. Tripathi Private Limited, 1972.**

The author examines Indian secularism through history, constitution, and law. He says India's

secularism, like every other institution, is a product of its history and traditions and an unavoidable response to independence and constitution-making. Many have questioned India's secularism. Some say that a secular state is a problematic hybrid that deviates from western paradigm and has nothing to do with Indian history or custom. He calls criticism "neither valid nor proper." He argues that understanding Indian secularism requires knowing India's history, the constitution's framers' battles, and the ultimate product in the context of secular state ideas and their application.

➤ **"Mohammad Ghouse, Secularism, Society and the Law in India, Vikas Publishing House, 1973"**

The author has extensively researched the Constitution's religious and cultural freedoms. This study explores secularism-related practical issues such communalism, communal rioting, religious institutions, exercising one's faith, entering temples, regard for places of worship, and personal law reform. Ghouse thinks religion need not be "banished from our lives". Meaning "society needs religion; religion can enrich and ennoble our lives"

He thinks religion will deal "not with dogmas and rituals but with the larger ideals of life," thus it will not hinder modernization. His research takes into account casteism, communalism, rioting, political party strategy, and Hindu and Muslim secularism views.

➤ **"P. C. Chatterjee, Secular Values for Secular India (Manohar Publishers and Distributors, 1995).**

This Chatterjee book examines Indian secularism's current difficulties. He defines religion and secularism's appropriate areas in private and public life to identify and limit their legitimate claims. The author investigates Vedantic Hinduism, Buddhism, Islam, and Sikhism to determine which ideals can be embraced in a secular society and which must be rejected. The author also attempts to limit conscience freedom.

➤ **"Bipin Chandra, India after Independence, Murari Lal & Sons Publications, 2009"**

This book explores India's issues and successes in the context of its century-long freedom struggle and colonial legacies. It shows how India's Third World experience uniquely combines growth, democracy, and civil freedoms. Looking for agreement and how Nehru's foreign,

political, and economic principles were created. The country's unification required princely state integration, language rearrangement, tribal mainstreaming, and regional imbalance resolution.

Other difficult topics covered in this article include India's foreign policy, federal and state party politics, the Punjab issue, communalism's rise, anti-caste politics, and untouchability. The Green Revolution, land reforms, and post-1991 tendencies of the Indian economy are examined.

- **"Bipin Chandra, Communalism in Modern India, Har Anand Publications Pvt. Ltd, 2015"**

Bipin Chandra's well-known work examines the historical development of communal politics in India, culminating in partition. It offers a thorough examination of the origins of communalism in the colonial period.

- **"K. N. Pannikkar: The Concerned Indian's Guide to Communalism, Penguin Books India, 1999."**

Pannikkar's edited work is thought-provoking and insightful. It challenges us to develop a truly secular identity for ourselves in the twenty-first century and raises the question of where we stand on communalism at the end of the millennium.

- **"Ashutosh Varshney, Ethnic Conflict and Civic Life: Hindu and Muslims in India, Yale University Press, 2003"**

Varshney's work demonstrates that the origins of communalism are essentially political, established by the deliberate activities of those who want to flesh out a politics of vilifying the 'other' and producing a homogeneous social identity where none exists. He used the comparative sociological method, selecting six cities as his subject of study--three riot-prone and three peaceful--to demonstrate his thesis.

- **"D. E. Smith, "India as a Secular State," Princeton University Press, 1963."**

Smith's work delves deeply into India's secular state. He begins by building a conceptual framework and then moves on to the emergence of majoritarian communalism in the post-

independence period, analysing and evaluating secularism in India, both its achievements and its challenges.

- **"V. P. Luthera, The Concept of the Secular State in India, Oxford University Press, 1965.**

Luthera's definition of "secularism" in this work is substantially narrower, viz. "Separation of State and Religion" and unequivocally states that India is not and cannot become a secular state. According to him, India is a jurisdictional state.

- **"P. B. Gajendragadkar, Secularism and the Constitution of India. University of Bombay, 1970.**

Gajendragadkar, J. This essay investigates the nature of secularism as enshrined in the Indian Constitution against the backdrop of India's history, tradition, and evolution of social philosophy. He also compares equivalent sections from several world constitutions.

- **"S. L. Verma, Theory of Positive Secularism. Rawat Publications, 1986.**

This piece of writing by Varma is an intellectual response to the issues of nationalism, secession, radicalism, and the possibility of the nation's dissolution. According to Verma, all of these have put a great load on the state and national development processes. In light of this setting, he proposes a philosophy of positive secularism and suggests revising the constitution to reflect it.

- **"G. S Sharma (Ed.), Secularism: Its Implications for Law and Life in India, N.M. Tripathi, 1966.**

The publication includes presentations presented during a seminar co-sponsored by the Indian Law Institute and the Education Commission of the Government of India. The author attempts to explain the subtle interplay of circumstances that resulted in the downfall of secular forces and, as a result, communalism's success. The authors of this volume attempted to outline how India's secularism will evolve in the future.

CHAPTER - 2

Secularism under India's Constitution, 1950

India became independent on August 15, 1947, and the Constitution took effect on January 26, 1950. After it, "secularism" became important in Indian politics and constitutional law. India wants an independent, socialist, secular, and democratic republic under the constitution.

The original Indian Constitution does not use "secular". The Constitution's 42nd Amendment Act of 1976 added this word to the preamble. The Preamble, Fundamental Rights Articles, and Directive Principles of State Policy reflect this secularism. Many modern states, like India, are secular. According to this view, the state is neither religious nor antireligious. State religion policy is neutral. Most states accept secularism, but its definition varies by state. In the US, "the separation of church and state" is respected. People and the government in the UK hold secular attitudes on religion. France accepts American design. Marxism, which is anti-religious, underpins secularism in the USSR.

2.1 Attempts to include the word secular in the constitution.

Throughout the "Constituent Assembly" deliberations, many of the participants used the phrase "secular". Professor K.T. made several attempts to introduce the phrase "Secular" into the Constitutional Document.

The initial effort by K. T. Shah proposed an "amendment to clause (I) of Article 1 of the draft constitution." Prof. K. T. Shah proposed adding the words "Secular," "Federal," and "Socialist" to clause (I) of Article 1, resulting in the amended Article: "India shall be a Secular, Federal, and Socialist Union of States." This will help India avoid "communalism" and "sectarianism," which it has previously encountered. Furthermore, by prohibiting interference from state authorities, it ensures justice and equality. "Dr." rejected the proposition for two reasons. The draft committee's chairman is named Ambedkar.⁹

First and foremost, the constitution should not change social and economic systems. People must settle these challenges based on time and conditions. It cannot be incorporated in the Constitution because it would undermine democracy. After "that the change was unneeded

⁹ Constitutional Assembly Debates, Vol. VII, Amendment No. 566, On 3rd December, 1948, P. 815.

because the Fundamental Rights and Directive Principles already include socialism's goals, hence it should not be accepted.¹⁰

H. V. Kamath also claimed that the change offered by Prof. K. T. Shah was unsuitable. If at all, the phrases "Secular and Socialist" should only exist in the Preamble. In the end, the Constituent Assembly rejected Professor K. T. Shah's amendment proposal.

The second attempt by K. T. Shah took the form of a proposed new article. Article 18 (A), read as follows: "The State in India being a Secular shall have no concern with any religion, creed or profession of faith, shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizens or other persons in the Union".

Prof. Shah proposed the concept of neutrality in the relationship between the state and religion. His "second amendment" was rejected without debate by the Constituent Assembly.

As a result, Prof. K. T. Shah attempted to change the Draft Constitution to explicitly indicate that the state is secular, but was unsuccessful. The Constituent Assembly rejected an amendment to the Constitution that would have incorporated the word "Secular". As a result, it did not appear in the Constitution's Preamble or any of its sections.¹¹

2.2 "Hindu State" and/or "Secular State"

When the Draft Constitution was debated in the Constituent Assembly, two conflicting opinions emerged: one supported the "Hindu State" and the other the "Secular State." In the first half, the concept of a secular state was assailed, with the claim that secularism had no meaning once the country was divided, and that the country should be dubbed the "Hindu State" in the same way that Pakistan had become Islamic.

In the Constituent Assembly, Loknath Misra stated, "If you accept religion, you must accept Hinduism as it is practised by an overwhelming majority of the people of India."¹² Many other Constituent Assembly members supported a secular state and expressed their opinions on secularism concepts.

¹⁰ Constitutional Assembly Debates, Vol. VII, Amendment No. 98, On 15th November, 1948, P. 402.

¹¹ Constitutional Assembly Debates, Vol. VII, Amendment No. 98, On 15th November, 1948, P. 402.

¹² Constitutional Assembly Debates, Vol. VII, P. 822.

Chaudhari Ranbir Singh made the argument that since "our aim to-day is to set up a Secular State - nondenominational State, our object of establishing a Secular State in this country would remain merely an unrealised dream if we decide to provide safeguards on the grounds of religion".

Hussain Imam held the following views: "A secular state does not imply an anti-religious state." It signifies that it is not irreligious, but rather non-religious, and hence there is a significant distinction between irreligious and non-religious."

Tajmal Hussain contended that "this is a Secular State and a Secular State should not have nothing to do with religion---." We, as a secular state, should not be identified by our clothing. If you wear a certain type of clothing, you can tell right away if someone is Hindu or Muslim. This should be eliminated." 103.

"H. V. Kamath" stated that "after all, the State represents all of the people who reside within its borders, and so, it cannot afford to identify with the religions of any one sector of the population. But, Sir, please do not misunderstand me when I say that a state should not identify with any one religion; I do not mean that the state should be anti-religious. We have undoubtedly announced that India will be a secular state, but in my opinion, a secular state is neither Godless, irreligious, nor anti-religious."

"Lakshmikanta Miatra" explained that "by secular state, as I understand it, is meant that the State is not going to make any discrimination whatsoever on the ground of religion or community against any person professing any particular form of religious faith. The State is not going to establish patronise or endow any particular religion to the exclusion of or in preference to others, and that no citizen in the State will have any preferential treatment or will be discriminated against simply on the ground that he professed, a particular form of religion".

"L. Krishnaswami Bharti" has pointed out that "it is not at all incongruous with the State's secular nature. After all, the state does not meddle with it. Religion will be present. It is a personal matter, and the State does not support any one religion. To argue that some religious individuals should not engage in propaganda or disseminate their beliefs is to demonstrate our intolerance."

"K. M. Munshi also believed that "A secular State is not a Godless State." It is not a state that

has promised to eliminate or ignore religion. In our country, the state does not refuse to consider religious beliefs."

Thus, Members of the Constituent Assembly provided a detailed explanation of the concept of secularism as established in our constitution. They appear to have generally agreed on the subject of establishing a "secular" rather than a "theocratic" or "Hindu" state in India.

2.3 Why did the secular state make the decision?

For a multitude of reasons, the Indian Constituent Assembly opted for the secular state. The Secular State was accepted "to strengthen the foundations of democracy." An authoritarian state may be Hindu in India or Islamic in Pakistan, but Indian democracy would have been destroyed if it had chosen the denominational state."

Shelat has clarified that the "denial of Secular principles would have not only jeopardised the territorial integrity and sovereignty of the new state but would have disrupted the democratic structure that was about to be set up after a long and arduous struggle".¹³

The secular state was chosen "because of the tradition of religious tolerance from the time of Asoka".

Wadhava has highlighted that "the concept of secular state was incorporated in the Indian Constitution to protect the rights of religious minorities. A theocratic state, because of its adherence to one religion, would have been detrimental to religious minorities. The concept of the secular state was embraced to accommodate the religious diversity of Indian society."¹⁴

It should be remembered that the founders of the Constitution advocated secularism after having an unpleasant experience with the country's religious split. Secularism was thus regarded as advantageous and vital for India. Similarly, choosing a certain faith to serve as the state religion was difficult in a country like India because of its diverse religious customs. Secularism was thus viewed as a realistic solution to the issue of religious plurality and religious minorities. The secular state served as a counterpoint to the Hindu state, which would

¹³ J. M. Shelat, *Secularism; Principles and Application* (N. M. Tripathi, Pvt. Ltd., 1972) 90.

¹⁴ B. Kuppaswamy, *Social Change in India* (Vikas Publishing House, Pvt. Ltd., 1979) 411.

have been a theocracy, an outdated definition of "secularism" that was approved in the Indian Constitution since it was deemed to be progressive and supportive of democracy.

2.4 Why was the term "Secular" omitted?

Despite the fact that India's Constituent Assembly chose to establish a "secular state," the term "secular" did not appear in the initial Constitution draft. So, the question of why the word "Secular" was left out emerges. The Constituent Assembly does not respond. However, various writers on the "Constitution of India" and "Secularism" have attempted to respond to this query.

Smith wrote that "the inclusion of such an article in the Constitution, however, laudable the intention behind it, would certainly have produced a conflict with **Article 25** which permits extensive State intervention in matters connected with the religion in the interest of social reform".

Luthera has stated: "The omission of the term secular was because the Constitution makers did not intend India to be a secular state in the proper sense of the term".¹⁵

According to Ayyub Abu Syeed, the term "secular" was not included because it was not mentioned in ancient writings. The framers of the constitution connected the word "religion" with an attitude of opposition.

Thus, one may argue that the absence of the terms "Secularism" or "Secular State" in the original Constitution was purposeful, but for a variety of reasons, including the diversity of religions and the importance of religion on Indian culture. Similarly, this resulted from the anti-religious connotations associated with the concept of secularism. The adjective "secular" was deleted because the "Indian Constituent Assembly" did not want to create a barrier dividing the state from religion. Instead, it has created a constitution that recognizes both the freedom to freely exercise one's religion and the state's authority to regulate that right for public order, morality, and other reasons.

2.5 Preamble and the Secular Character of the Constitution

The Indian Constitution identifies itself as a secular constitution and calls for the establishment

¹⁵ V. P. Luthera, *The Concept of Secular State and India* (Oxford University Press, 1964) 62-63 and 152.

of a secular state. The concept of "secularism" is included in the "preamble" to India's Constitution.

The preamble's original form is as follows: "**WE, THE PEOPLE OF INDIA** having solemnly resolved to constitute India into a **SOVEREIGN DEMOCRATIC REPUBLIC** and secure to all its citizens: **JUSTICE**, social, economic and political, **LIBERTY** of thought, expression, belief, faith and worship, **EQUALITY** of status and opportunity and to them all, **FRATERNITY** assuring the dignity of the individual and unity of the Nation".¹⁶

Thus, the "Preamble" of the constitution says that India shall be a "Sovereign Democratic Republic". It is worth noting that the word "secular" did not appear in the preamble. Parliament passed the **42nd Amendment Act in 1976**, which inserted the term "Sovereign" to the Preamble.

The modified preamble read as follows- "**WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into 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 opportunity and to promote among them all, **FRATERNITY** assuring the dignity of the individual and the Unity and integrity of the Nation".

The **42nd Constitutional Amendment Act** was passed by parliament at a time when an emergency had been declared. The emergency was declared on June 25, 1976. As a result, the opposition leaders ended up in jail. There was also press censorship. Free and open debate on the amendment bill was impossible in an oppressive and fearful environment.

The change to the preamble was equally contentious. However, it should be observed that the inclusion of the term "secular" in the preamble was not criticized or challenged; this could be due to the aforementioned reasons. However, an objection was lodged on technical grounds, claiming that the preamble could not be modified because it was dated and not technically a part of the Indian Constitution.

"Shri P. G. Mavlankar" raised the point that "can we amend the Preamble which was passed on November 26th, 1949 and that was clearly indicated in the Preamble--- the Preamble is a

¹⁶ 42nd constitutional amendment Act 1976.

component of the Constitution, not strictly, but surely is the key to the constitution, as the Hon. The Law Minister correctly stated. As a result, if you include the phrases Socialist and Secular in the Preamble today, I am worried that some people will argue that the word Democracy should be removed. Already, the substance has vanished; the term may follow next time."

In her defense of the Preamble changes, Indira Gandhi said "the founding fathers of our Constitution and of our country intended Indian society to be secular and socialist." They have ruled our laws for years. We are only adding them to the constitution, as they should be. The Preamble's acceptance of this fact will guide the people, government, courts, and globe." India chose secularism without saying so in the Preamble or other areas of the constitution. Thus, the secular state's affirmation had no effect. Must be expressed clearly.

The "**42nd Constitutional Amendment Act 1976**" adds secular to the Preamble. Perhaps a secular state and society were recognized before 1976, but now they are constitutionally approved.

The insertion of "Secular" to the "Preamble of the Constitution" considerably expands its goals. Public pressure can now force the government to promote secularism.

The proclamation that India is secular could be the most effective measure against communalism. Also, it will maintain national unity. Religious minorities in India can only choose secularism. This is because only the secular state does not favour any faith. This constitutional amendment secularized India, aligning it with other progressive nations.

However, adding "secular" is insufficient. Government policies must be properly articulated to avoid confusion during implementation and progress. The **42nd Amendment Act** adds "secular" to the preamble without defining it. This might be a constitutional amendment flaw.

The "preamble to the constitution" now highlights the secular "Indian Constitution". It also shows how much the Constitution values secularism. The preamble beautifully states Indians' values and aims.

Understanding Indian secularism requires understanding Indian citizenship. The ideal of Indian citizenship includes secularism. Citizenship is based on the individual, not the group. Citizenship involves the state imposing duties and responsibilities on an individual in exchange for state-granted rights and benefits.

The Indian Constitution left citizenship acquisition and renunciation to the legislature without specific guidelines. Parliament passed the **Citizenship Act of 1955. Articles 5–11 of Part II of the Indian Constitution and Citizenship Act provisions explain Indian citizenship.**

According to the Indian constitution, citizenship is not based on faith or group. Thus, citizenship provisions show the secular nature of the Indian constitution and state. Mr. Shelat said **"Articles 5 to 7 of the Constitution, which deal with citizenship, are entirely secular in nature and have nothing to do with race, religion, or creed."** The assurance of the universal adult franchise, regardless of race, religion, or gender, strengthens secular citizenship." The Indian Constitution also bans dividing citizenship into majority and minority categories like "First Grade Citizens" and "Second Grade Citizens".

Some political leaders use this word to refer to citizens, however it is unconstitutional. Justice Gajendragadkar said India has one class of citizens. All Hindus, Muslims, Christians, Jews, and Parsis have equal citizenship rights in this country.¹⁷

2.6 Right to equality and secularism

The constitutional clauses relating to the Right to Equality could be utilized to determine the "Indian Constitution's secular nature. **Art. 14 to Art. 18** of the "Indian Constitution" address the "right to equality". These articles aim to ensure the formation of a "secular state" in India. Equal rights in the political, social, and economic realms are also vital to Indian secularism.

2.6.1 Equality before the Law

Art. 14 of the "Indian Constitution" guarantees the right to "equality before the law". The fourteenth article provides that the "State shall not deny to any person equality before the law or the equal protection of the law within the territory of India".

The expressions "equality before the law" and "equal protection of the laws" do not have the same meaning. In fact, they represent different ideas. "Equality before Law is a negative concept". "It implies that everyone is equal before the law and absence of any special privileges in favour of any person, and equal subjection of all classes to the ordinary law of the Land". "Equal protection of laws is a positive concept. "It implies equal treatment under equal

¹⁷ P. B. Gajendragadkar, *Secularism and the Constitution of India* (University of Bombay, 1971) 55.

circumstances." According to Shukla, "the rule is that like should be treated alike and not unlike should be treated alike." In the *Chiranjitlal Chaudhary V. The Union of India* case, the Supreme Court defined "equal protection" as "equal protection under equal circumstances."¹⁸

2.6.2 The prohibition of discrimination on numerous grounds

No one should be discriminated against because of their "religion, race, caste, gender, or place of birth," as stated in **Article 15** of the "Indian Constitution." Clause (1) of **Article 15** states that "the state shall not discriminate against any citizen solely on the basis of religion, race, caste, gender, place of birth, or any of these." Clause (2) No citizen shall be subjected to any disability, liability, restriction, or condition solely on the basis of religion, race, caste, sex, place of birth, or any combination thereof, with regard to (a) access to shops, public restaurants, hotels, and places of public entertainment, or (b) the use of wells, tanks, bathing ghats, roads, and places of public resort maintained wholly or partly with state funds or dedicated to the general public. Clause (3) Nothing in this article prohibits the state from providing specific provisions for women and children. Clause (4) Nothing in this article or Clause (2) of **Article 29** prohibits the state from making any particular provision for the advancement of any socially and educationally backward sections of citizens, including the scheduled castes and tribes."

The phrasing of **Article 15** makes it apparent that it is just intended to provide an understanding of the term and has a much broader reach. yet state that "rights under **Article 15** are available only to a citizen of India".

In this context, it is explained that "the constitution does not prohibit the state from discriminating based on religion." The concept of religious non-discrimination stated in **Article 15 (1)** states that the state may not discriminate against any citizen solely on the basis of their faith. It may, however, discriminate on religious grounds if it is supplemented by another ground.

Furthermore, when providing specific provisions for the advancement of scheduled castes and scheduled tribes, the state may use religion as the sole ground for discriminating against its inhabitants." According to **Article 15**, clause 4 states that preferential treatment might be

¹⁸ V. N. Shukla, *Constitution of India* (Eastern Book Company, 1982) 30.

granted to socially and educationally backward classes to help them achieve equality with more advanced sections of society over time.

The universal guarantee enshrined in clause (1) of **Article 15** is exemplified by a number of other constitutional articles. For example, **Article 16** (2) provides for equal job opportunities. (ii) **Article 325** states that "no person shall be ineligible for inclusion in, or claim to be included in, a special electoral roll on the basis of religion, race, caste, or gender." It means that there would be a single general electoral roll for each territorial constituency for election to either the House of Parliament or the House of the Legislature of a State." (iii) **Article 326** provides for Universal Adult Suffrage. (iv) **Article 42** provides for maternity benefits for female workers. (v) **Article 45** provides for a free education for children. (vi) **Article 39 F** describes measures for the "prevention of exploitation" of children.

Similarly, some particular empowerment measures for specific classes have been made in "**Part XVI of the constitution**". **Article 330** states that it "provides for the reservation of seats for the schedule castes and the schedule tribes in the house of people".

Article thirty-third "provides for reservation of Anglo-Indian Community in the House of people by nomination".

Article 332 provides for "the reservation of seats for the scheduled castes and scheduled tribes in the Legislative Assemblies of the state".

Article 333 establishes "the Anglo-Indian Community's representation in the Legislative Assemblies of the States".

Granting such special privileges to some backward tribes for a prolonged period will cause conflict with those who do not have such privileges. And this would impede the merger of various specific classes and communities. Thus, it is clear from the foregoing explanation that "**clause 4 of Article 15**, and the provisions contained in **Articles 330 to 334** are inconsistent with the concept of secularism as explained in **clause I of Article 15** of the Indian Constitution".¹⁹

¹⁹ The Constitution of India 1950, Part III.

2.6.3 Equal Opportunity

Article 16 of the Indian Constitution ensures "equal opportunity in matters of public employment." (1) All citizens shall have equal opportunities for employment and appointment to any office under the State. (2) No citizen will be denied or discriminated against in any employment or office under the State solely on the basis of religion, race, caste, sex, descent, place of birth, residency, or any combination thereof. (3) Nothing in this article prohibits Parliament from enacting legislation requiring residence within a State or Union territory prior to employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory]. (4) Nothing in this article prevents the State from making provisions for the reserve of appointments or posts in favor of any backward class of persons who, in the view of the State, are underrepresented in the State's services.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the State's services in favour of Scheduled Castes and Scheduled Tribes who, in the opinion of the State, are underrepresented in the State's services. (4B) Nothing in this article shall prevent the State from considering any unfilled vacancies in a year that are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years, and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling. The reservation is based on the total number of openings for that year. (5) This article does not affect any laws that require religious or denominational institutions' officers or governing bodies to be members of a specific religion or denomination.²⁰

It should be clarified that the "right guaranteed under **Article 16** is available only to the citizens of India and it ensures economic equality by giving equality of opportunity in matters of public employment". However, the concepts of "equality of opportunity" have lost their significance as a result of the reservations given in "**clause 4 of Article 16**". In this regard, Smith has observed that "when the scope for equality of opportunity is reduced to three posts out of ten, the modern concept of the individual as the basic unit of the state is in grave danger." This type

²⁰ The Constitution of India 1950, Part III.

of organization results in a state made up of castes and groups, not individuals. It may effect a static kind of justice, but it does not result in a dynamic society or a truly secular state."

2.6.4 Elimination of untouchability.

The abolition of untouchability is explained in **Article 17** of the Indian constitution. This Article states that "untouchability is abolished, and its practice in any form is prohibited." The enforcement of any disability stemming from untouchability must be an offence punishable by law."

This constitutional provision can be viewed as a revolution because it removed an age-old institution in Indian society. It also suggests that our constitution is secular. The abolition of untouchability is unquestionably vital because it promotes social equality, which is required for the development of a secular society.

While considering the constitutional criteria of 'Untouchability', Dr. Luther questioned whether a secular state could outlaw untouchability in religious places. Can religious institutions, including churches, open? --- To whom are these institutions closed due to religious convictions or whose entry the constituted authorities vehemently object? Luther replied them. He said "the state's performance of such functions in relation to religious institutions is inconsistent with the concept of the secular state." This answer is easy to justify. A secular state allows church and adherent interactions to be settled among themselves. The church can chastise its members. --- The state controls church-member interactions. It interferes with Hindu religious institutions' internal affairs, which contradicts the state's secularization aim."

India's secularism is different from the West's but affected by it. The Indian Constitution differs from the Western Constitution in this sense. India's secularism is not based on Western secularism because it developed in a different historical context.

Indian secularism protects and equalizes all religions without a state religion. Indian secularism does not abolish major religions. "Not anti-religious. But it is not religious. It does not restrict the state from funding Church-affiliated schools. The state can regulate religious rituals to promote peace and cultural development.

Indian secularism acknowledges both a secular state and popular religion. The constitution

mentions "religion" and a "secular state," especially in **part III and IV**, which address fundamental rights and directive governmental policy.

Similarly, since the constitution's implementation, various political officials, authors, journalists, and others have asserted that India is a secular state or that India has adopted secularism as its official national policy due to the constitution's nature.²¹

Despite constitutional safeguards and frequent pronouncements, the question of whether India is a secular state persists. Or does India practice secularism? Is questioned. Different people hold different perspectives about this.

This paper contends that the Indian constitution promotes a secular state and acknowledges the concept of secularism. However, in light of the state and society in India, some alterations have been made to the notion of secularism. India's secularism differs significantly from that of the West. The secularism contained in the country's constitution has been modernized to reflect India's heritage of religious tolerance and freedom.

However, it should be noted that some of the constitutional measures are not only insufficient, but actually contradict secular values. These are the positive constraints placed by the constitution itself to preserve the greater good of society and to prohibit the unrestricted enjoyment of freedom that would jeopardize the freedom of others.

CHAPTER 3

Contemporary concerns and threats to secularism.

Though India's constitution recognizes the concept of secularism and calls for a secular state, Indian secularism faces a number of major obstacles. Because the nature of Indian secularism differs from Western secularism, so do its issues. According to the article, "the theory of the Secular State in India, raises many problems unknown to western political experience such as separate electorate for the various religious communities, communal personal laws, the caste system, agitation for laws banning cow slaughter and so forth".

It should be mentioned in this regard that Indian secularism's challenges stem from all aspects

²¹ A. B. Shah, *Secularism in India* (Lalvani Publishing House, 1968) 1.

of Indian life. As a result, a solution for them must be found in the Indian context. Smith stated that "Indian solutions must be found for Indian problems".

The challenges to Indian secularism are numerous and complicated. They can be categorized and discussed as follows:

- 1) communalism,
- 2) Casteism.
- 3) Party politics.
- 4) Obscurantism.

3.1 Communalism

Communalism is the most severe challenge to India's secularism. It is sad that, despite having a secular constitution and being in our fourth decade of independence, our country has been unable to overcome sectarian strife. Communalism not only exists, but has grown. Communism appears to have spread throughout the country.

3.1.1 What is communalism?

The examination of communalism as a challenge to secularism can begin with a definition. D. E. Smith describes 'communalism' as the inclination of religious organizations to act as such in politics. Communalism can alternatively be characterized as "strong allegiance to one's own ethnic group rather than to society as a whole".²²

According to Saksena, communalism refers to a religious community's pursuit of social, political, or economic dominance. It can be local but not national.²³ It is difficult to tell who is accountable for communalism. Some blame Muslims, some charge Hindus, and still others blame Britishers. It is believed that "the roots of communalism do not lie in the medieval history of India".

²² Misra Dina Nath, R.S.S., *Myth and Reality* (Vikas Publishing House Pvt. Ltd., 1080) 123.

²³ R. N. Saksena, *Indian Social Thought* (Meenakshi Prakashan, 1981) 133.

Dr. Moin Shakir has stated that "the problem of communalism in India is a 'gift of Islam'." The history of Muslim communalism extends back to the advent of Islam, and India's response to it was resurgent nationalism. Even after independence, Muslims have refused to adapt.

However, Dutt claims that the British were responsible for the communal problem. He has stated that "prior to British Rule, there is no trace of the type of Hindu-Muslim conflicts associated with British Rule, particularly the most recent period of British Rule." There were conflicts between states with Hindu or Muslim rulers, but these wars never took on the characteristics of Hindu-Muslim enmity. Muslim rulers openly employed Hindus in high positions, and vice versa.²⁴

However, other writers disagree with this viewpoint. According to Prof. A. B. Shah, "the British encouraged and exploited the Separatist sentiments, but they certainly did not create it."²⁵ Justice Shelat further clarified that the British did not create the communal conflict. They just exploited the social and religious conflicts between the two communities, diverting them into politics for their own ends."

3.1.2 Community Organisations

The British manipulated the Indian people's communal and cast feelings, undoubtedly for political purposes. The British started it with the creation of a separate electorate for Muslims. The Indian Council Act of 1909 established a separate electorate, as advocated by the Muslim League (1906), the first communal group dedicated to protecting Muslims' interests. Later, other Muslim organizations emerged, including the Jamat I-Islami (1941), the Majlis-e Mushawart (1964), and the Muslim Majlis (1968).

Dr. Moin Shakir has found that these Muslim organizations regard Muslims as a homogenous, well-knit, and homogeneous population, and thus characterize the religious and cultural problems as same. --- In terms of ideology and political approaches, Muslim organisations are predominantly conservative and fundamentalist. The manipulation of religion and religious vocabulary strengthens social identification and unity. --- Their manifestos reveal a purposeful attempt to overlook the economic issues of the Muslim masses. Their economic theory

²⁴ R. P. Dutt, *India To-day* (Manisha Ltd., 1970) 455.

²⁵ A. B. Shah, 'Gandhi and the Hindu-Muslim Question' (1970) *Quest*, January-March 21.

emphasizes resistance to socialism and communism.

Over time, "Hindus, Sikhs, Christians, and untouchables" established their own communal associations. Hindu organisations include the "Hindu Mahasabha" (1907) and the "Rastriya Swayam Sevak Sangh" (1925). The "Hindu Mahasabha" was formed to defend the interests of "Hindus and Hindu Nationalism" against the "Muslim League".

The British Government used the communal organization for its own purposes. The Indian National Congress opposed the system of a separate electorate, but it failed. As a result, Muslims became alienated from the Congress, and the differences between the "Congress" and the "Muslim League" widened, eventually leading to the country's partition, resulting in independent Pakistan and India.²⁶

The establishment of Pakistan was anticipated to solve the problem of communalism. But the anticipation has not been met. It is claimed that "the basis of partition was enmity between Hindus and Muslims."²⁷ The establishment of Pakistan resulted in a permanent constitutional shape, making it more challenging to resolve.

3.2 Casteism.

Caste is the most essential part of Indian society after religion, and it has stifled the growth of secular organizations. Nehru stated that "a caste-ridden society is not properly secular"²⁰⁸.

3.2.1 Caste System.

The institution of caste has been one of the distinguishing features of Indian society, particularly Hindu society, since ancient times, and despite significant changes in India's history, the caste system has remained an important feature of social life in India, and it has also become an important factor in the country's politics.

The caste system is deeply rooted. The caste system is said to be based on the ancient 'Varna' Scheme, despite the fact that these are two distinct concepts. The 'Varna' scheme has four groups: Brahmins, Kshatriyas, Vaisyas, and Sudras. The four-fold distinction is purely

²⁶ Dr. Moin Shakir, 'In the name of Islam' (1984) *The Illustrated Weekly of India*, March 29.

²⁷ Maulana Azad, *India Wins Freedom* (Orient Longmans, 1959) 225.

ideological and does not reflect the reality of the social order.²⁸

The profession-based 'Varna' program was lax. Instead, the caste system refers to endogamous kinship groupings and social systems with hundreds of castes and subcastes. The Hindu caste system is also considered mystical and holy.

Originally, caste was linked to a particular occupation, village community, and village economics. However, throughout the British time, it underwent significant changes and became more adaptable as a result of industrialization and modernization. The British government also enacted legislation influencing the caste system. During this time, the caste system shed many of its ancient characteristics.

3.2.2 Caste & Reservation

After 1947's independence, casteism changed drastically. The Indian Constitution recognizes the individual as the unit of power and enforces equality through a universal adult franchise system.

The most hated and brutal part of the caste system, untouchability, was prohibited by the Constitution. The Constitution also criminalizes caste and sectarian discrimination and exploitation. The Constitution allows protected discrimination for the most oppressed and backward.

Part-XVI of the Constitution guarantees Scheduled Caste and Tribe seats in the House of People, Legislative Assemblies of the States, and Government and Institutional Services. They receive several educational facilities and subsidies.

Reservation was extended to SC/STs. Both Hindu and non-Hindu economically deprived communities were unprotected. Those prohibited from the reservation loathed it. The 1951 Indian Constitution's First Amendment introduced a language in Article 15 for the state to encourage socially and educationally backward castes.

Some say the "greatest harm has been done by the attempts of both Central and State Governments to define economic, social, and educational needs in terms of caste and to extend

²⁸ 9 K. M. Panikkar, *Hindu Society at Cross Road* (Asia Publishing House, 1967) 29.

aid on that basis." --- This technique has simply perpetuated and diminished caste consciousness, resulting in considerable injustice in many cases where caste, rank, and economic need are unrelated."

3.3 Party Politics

Party politics, particularly of a communal nature, have also hampered secularism in India. India has a multiparty system. However, since independence, one or two parties have dominated the country. Previously, the Congress Party was dominant; now, the Bhartiya Janata Party is the dominant party at the national level as well as in many Indian states. India has traditionally had a weak opposition party.

3.3.1 Secularisation of Political Parties

Many political parties are rapidly secularizing their goals. Their election manifestos emphasize democracy, stability, integrity, fighting communism, industrialization, economic development, and maximum employment, fighting corruption and purity in administration, enforcing the Directive Principles, social and economic democracy, and greater concessions to the weaker classes.

They promise to safeguard India's secular democracy. Almost all parties plan and run their campaigns along community lines, compromising with communal features. Their actions contradict their beliefs, notably secularism. Political parties and leaders profess to be secular yet act otherwise.

Despite political parties' protestations, their secularism promotion has been harmful and malicious. No one has prioritized secularism over politics. Community parties and organizations are conservative and reactionary. They raise political opinion through religion, caste, language, or other means. Thus, they threaten secular politics and hinder secularism in India.

Sectarian parties have poor leadership and little popular support, yet their existence does not bode well for India's secular state. Thus, political parties should not be allowed to promote communalism or make communal or religious demands. People must also follow secular politics in the country.

3.4 Obscurantism

Indian secularism is also confronted with obscurantism. Despite progress in practically all aspects of life, obscurantism prevails. Obscurantist aspects exist in all religions, impeding the progress of humanity and a dynamic social order. Because of obscurantism, people value rituals and traditions over rationality.

In the context of Indian society, it is worth noting that obscurantists exist in all societies. Indians, whether Hindus, Muslims, or Sikhs, are generally traditional in their worldview, and many of their traditions and rituals reflect this. They look backwards rather than forwards. They refuse to accept fresh ideas. Because of the obscurantist aspect, orthodox Muslims resist any changes to the traditional way of life and Muslim personal law. And the orthodox Hindus call for a complete ban on cow slaughter. The worst part is that even high-ranking government officials are susceptible to this influence.

All of these factors have impeded the expansion of secular forces, posing a threat to secularism in India. If this condition is to be rectified, a major renaissance movement is required to increase the prominence of secular forces in society.

CHAPTER - 4

Conclusion and suggestions

4.1 Conclusion:

The above analysis of the clauses in the Indian Constitution plainly demonstrates that the Constitution enunciates secularism through its numerous provisions and establishes a secular state. It should be noted, however, that the Indian concept of secularism and the secular state differs significantly from the Western concept of secularism. As a result, the concept of secularism as represented in the Indian Constitution cannot be considered in the same way that it is understood in Western countries. It must be understood in the perspective of the Indian State and Society.

4.2 Answering Research Questions

(I) Is the Indian Constitution secular in nature?

The Indian Constitution's several clauses establish a secular state and enunciate secularism. The 42nd Amendment Act of 1976 placed "Secular" in the Constitution's preamble, making India a secular state. One could claim that the country is nominally secular.

(II) What mechanism in the constitution encourages secularism?

Before the 42nd Amendment, India's Constitution's Articles and provisions promoted secularism by tradition. The researcher detailed all secularism-supporting procedures and provisions in previous chapters. The ban of religious discrimination, minority community protections, brotherhood as mentioned in the preamble, and a state without faiths support secularism in India.

(III) What are the most common objections of India's secularism?

Secularism in India differs from the West. Philosophers have defended and criticized Indian secularism. A prevalent accusation is that most Indians are superstitious and obscurantist. Many political parties exploited castes and religions after India's freedom. Thus, India's secularism confronts many challenges. Comunalism, casteism, obscurantism, etc. are inconsistent.

(IV) Are there any threats to religious freedom and secularism in India today?

Religious tolerance has shaped India's cultural and religious diversity since ancient times. After independence, India pursued secularism and inserted various safeguards in the constitution to ensure religious freedom and a religion-free state. After the constitution was imposed on the 26th, secular was added to indicate that the country is secular. However, party politics, communalism, casteism, and other state issues regularly violate the country's secular nature and religious freedom rights. All of these issues threatened secularism and religious freedom in the country.

4.3 Findings

The 42nd Amendment Act of 1976 adds secular to the Constitution's Preamble, declaring India secular. However, the state's pragmatic secularism implementation has failed. The country's obstacles—communalism, casteism, party politics, obscurantism, etc.—prevent it from being truly secular.

India may only be secular in the official sense and is still seeking to become a secular state due to the above problems. All barriers remain the biggest threat to the country's secular identity.

India has a different secularism than the West. State and religion are not totally distinct; there is no wall. The constitution authorizes state interference in faith and religion. This is heavily denounced as anti-secular. The findings above prove the hypothesis.

4.4 Suggestions

Building a Secular Society in India can provide an answer to the issues and inconsistencies that Indian secularism presents. It means that society will be founded on secular principles of living and social life, and that its institutions will be free of religious influence. Secularization can lead to the establishment of a secular society.

There is also a need to change the constitution to make it more secular in nature.

- a. The government should adopt a policy advocating for secular ideas in education.
- b. Religion should not be discussed by government officials or political leaders while doing public duties.
- c. To reduce uncertainty and provide a clear understanding of the term "secularism", it should be defined in the constitution, or a separate Article establishing India's real status as a secular state should be inserted.
- d. It is required to publish the Uniform Civil Code.
- e. Strong regulations must be enacted to ensure fair trials and prompt convictions in cases involving rioting, hate crimes, and racial intolerance.

As a result, the Secular Constitution and the State alone are insufficient to maintain secularism in India; a secular environment is required. The concept of secularism, which is enshrined in the Indian Constitution, would only exist as a philosophical and constitutional word in the absence of "Secular Society".

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