



THE WORLD IN THE EYES OF LAW

VOLUME 2



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Preface

A thought that has been enduring in mind when becomes real is truly an interesting and exciting experience. This book is one such cherished work that has its roots in the persuasion of many authors, contributors and also mentors which has now embellished to become the snapshot of the innumerable efforts put in since months. This book serves to reinforce increased awareness, improved interaction and integration among all of us.

As the Editor of this book entitled “The World in the Eyes of Law”, I wish to thank all researchers, who have submitted their contributions. The main aim of this book is to enhance knowledge among researchers, students and the legal fraternity at large and to provide an opportunity for creative research and multi-level consideration of broader issues related to legal insight from both national and interdisciplinary perspective.

It has been indeed a pleasure going through the journey of compiling and editing this book. This maiden issue will surely inspire all of us for a new beginning and enlighten the minds of young scholars with hope, confidence and faith.

Happy reading!

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“REVISITING OPERATIONAL SECULARISM IN INDIA”

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ABSTRACT

We the people have constituted India as Sovereign, Socialist, Secular, Democratic, and Republic. The expression ‘Secular’ has been added by the 42nd amendment. However, the concept of secularism is not new to India. The vision of secularism – ‘Sarva Dharam Sambhava’ i.e. equal respect for all religion – has always been deeply rooted in the governance of Indian society, which has its roots in Yajur Veda, Atharva Veda and Rig Veda and Akbar's Din-e-Ilahi.

The concept of secularism is based on the broader concept of the right to equality i.e. No citizen shall be discriminated by the State on the ground of sex, caste, religion, race and colors. It is true, that religion does not aim to divide people on their beliefs, but unfortunately, it has been used as a weapon to divide people and to extract mileage out of it for some stakes. This chapter traces the concept of secularism, its incorporation in Indian constitution, practice of this principle in different system of the world, difference in practice and principle of secular ideas. In addition, it also explores the possible solutions to strengthen secular practices.

Keywords: Secularism, Democracy, Equality, Indian Constitution, Religion

INTRODUCTION

The Constitution of India describes the State as Sovereign, Socialist, Secular, Democratic, and Republic. The expression ‘Secular’ has special significance in the context of the historical development of Indian polity. In a plural society like ours with a multiplicity of religions, creed and cultures, democracy cannot survive, much less flourish unless it is based on the principle of secularism. As Late Smt. Indira Gandhi put it: “*secularism and democracy are the twin pillars of our society, the very foundation of our society*”.¹

The concept of secularism is not new to India. The vision of secularism – ‘Sarva Dharam Sambhava’ i.e. equal respect for all religion – has always been there in the country and has its roots in Yajur Veda, Atharva Veda and Rig Veda and Akbar's Din-e-Ilahi. However, the word ‘secularism’ was not used in the Indian constitution until the 42nd Amendment in 1976, which incorporated the word explicitly in the preamble. This does not mean that the concept of secularism is not established in the constitution or Indian laws.

The whole philosophy of Indian Constitution is based on three tenets of Equality, Fraternity and Justice. The concept of secularism is based on the broader concept of the right to equality i.e. No citizen shall be discriminated by the State on the ground of sex, caste, religion, race

¹ Dr. Fadia B.L. (2010) eighth Revised Edn; ‘Indian Government and politics’ (Sahitya Bhawan Publication: Agra) at pg 99.

and colors. The lines written by famous poet IQBAL –‘Majhab nhi sikhata, aapas mein bair rakhana’², tells the essence of secularism in Indian context. It is true, that religion does not aim to divide people on their beliefs, but unfortunately, it has been used as a platform to divide people and to extract mileage out of it by some stakes.³

SECULARISM IN INDIAN NATIONAL MOVEMENT

The nationalist movement in India drew inspiration from the secular concepts. In fact, in Indian national movement secularism was as important strand. The founding father of the Indian Constitution never hesitated to build India on a secular foundation. They opposed and defeated the amendment proposed by H. V. Kamath to invoke the name of God in the preamble of the Constitution. Pandit Kanjru said that we invoke the name of God, but I am bold to say that while we do so we are showing a narrow, sectarian spirit, which is contrary to the spirit of the Constitution. The Indian flag consists of Ashok Chakra in its center. The wheel has many spokes but all are of equal length. It indirectly refers to the Indian stand on the principle of equal treatment of all religions.

An important amendment was moved in the meeting dated December 03, 1948 by Prof. K. T. Shah. “The state in India being secular shall have no concern with any religion, creed or profession of faith, and shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizen or other persons in the Union.” It is now clear that this idea of making India a secular state was not there in the original draft. It was only on December 18, 1976, the word “secular” was added in the preamble of our Constitution. The 42nd Amendment Act reads- “In the Preamble of the Constitution – (a) for the word ‘Sovereign, Socialist & Republic’ the word ‘Sovereign, Socialist, Secular, Democratic & Republic’ shall be substituted”.

Therefore, the word Secular entered in our Constitution only almost 25 years after it had come into force.⁴

MEANING AND DEFINITION OF SECULARISM

Secularism is a word, which has its origin in western countries and related to the separation of the church from the state; giving the state a position of neutrality between different religions while at the same time guaranteeing all citizens the right to profess any one of them. In another word, it can be said that the secularism is the process by which sectors of society and culture are removed and separated from religious symbols and Institutions.⁵

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² Religion does not teach animosity with people of different religion.

³ Shri Kumar Ravi, “Secularism-Complex relation between Religion and Law”, Article (National Foundation on Communal Harmony).

⁴ K. Srinivasan, "Secularism-Constitutional provisions and need to strengthen secular value" Article (National Foundation on Communal Harmony).

⁵ Bhargava Rajeev, Secularism & its critics, edn.(1998) P8. 420.

Message from the Publisher's desk

We, at Pen Acclaims, take immense pleasure in welcoming you to our new venture, "The World in the Eyes of Law". We have created this publication with the intention of providing a space for the generation of knowledge, dialogue, critique, debate, and collaboration among an international community of child, youth, family and community practitioners and scholars. The immediacy of e-based publication makes it possible for us all to be fully connected to each other and to developments in our field and to be directly involved in ongoing knowledge construction. Our journal is independent of corporate demands and we can therefore invite you to be full participants in the creative process that we are undertaking together. Our vision is to create a high-quality publication that will be relevant, challenging, thought-provoking, and inclusive of a diverse range of voices and perspectives, including graduate students, academic researchers and scholars, policy-makers, and child, youth and family serving practitioners. We welcome original research, theoretical contributions, reviews of the literature, critical commentaries, case studies, book reviews, and works-in progress. It is our intention from time to time, to offer guest edited special issues as books as well as journal offerings. We do this in order to support access and diversity in the ever narrowing corporatized world of academic publication. We are delighted that you are joining us as readers and hope you will also join us as contributors.



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