

Freedom of Religion under the Constitution of India

Pranav Raina, Department of Law,
Galgotias University, Yamuna Expressway
Greater Noida, Uttar Pradesh
Email ID: pranav.raina@Galgotiasuniversity.edu.in

ABSTRACT: *India was the birthplace of many religions and is now known as the land of moral values, history and philosophical thought. Religious interpretation varies from person to person; it is solely a matter of preference and conviction. If we pay attention to the Indian case, it can be inferred that there is a heavy trust and reliance on people in this country when it comes to their religion. They may perceive that religion brings meaning and purpose to their lives as the reason for having strong faith. People with a good faith leave no stone unturned in displaying their devotion to their respective religion. Various constitutional rights are granted under Part III as well as guaranteed by our Indian Constitution. Among them, freedom of worship is also the one granted under the Indian Constitution under Article 25-28. Being a secular country, India gives every person the freedom to practice the religion in which they believe.*

KEYWORDS: *Constitution; Freedom; Fundamental; India; Religion; Secularism.*

INTRODUCTION

With this right and freedom, every person is entitled to preach, practice and promote the religion of his choosing. This freedom to distribute it among all without any fear of government interference often offers an incentive. But then, the state is required to practice it amicably within the country's jurisdiction. In terms of ethnicity, nationality, culture, caste and society, India is a land of diversity. India is secular, unbiased and impartial when it comes to practicing one's religious convictions. Our Indian Constitution promises that no person is stripped of his or her freedom to worship and confess his or her faith[1].

Under the Indian constitution, the idea of secularism is omnipresent. The word Secular was adopted in our preamble by the 42nd amendment to the Indian Constitution, 1976. There were direct provisions with respect to secularism, but *res ipsa loquitur* was their vocabulary. Our Constitution has great respect when it comes to secularism, and this idea is given the utmost priority. Secularism is also seen as high esteem and in the eyes of law deserves dignified recognition. According to the Constitution, the assignment of this right is to provide any citizen with an opportunity to announce the religion he believes or wishes to profess publicly and without any delay[1].

There are plenty of decisions expressly concerned with secularism, such as in the case of S.R. Bommai and the case of Keshvananda Bharti v. Union of India, where it was held that secularism is the central characteristic of the Indian Constitution and this freedom should not be stripped away or abridged by any provision of legislation[2].

Religion is a question of faith or conviction. The Indian Constitution acknowledges the role of religion in the lives of the people of India, and hence provides for the right to freedom of religion in accordance with Articles 25 to 28. A secular model is envisaged by the Constitution of India and provides that every person has the right and freedom to choose and practice his or her religion[2].

The Supreme Court has held in a number of cases that secularism is the fundamental foundation of the Constitution, with the Kesavananda Bharati case being the most important. Islam, Hinduism, Jainism, Buddhism, Sikhism and Christianity are predominantly practiced by people in India. There are religion-specific laws in India and Goa is the only state recognized as the Goa Civil Code to have a Standardized Civil Code. The Constitution encourages religious unity, which ensures that the people of India show respect and reverence for the country's various faiths[3].

Secularism implies the creation, comprehension and reverence of multiple religions. The term 'Secularism' is considered to have its roots in late medieval Europe. In 1948, a proposal by the KT Shah to add the term 'Secular' in the Preamble to the Constitution was made during the debate of the constituent assembly. However, the members of the legislature acknowledged the secular essence of the constitution, although it

was not included in the preamble. After, the 42nd Amendment Act was passed by the Indira Gandhi government in 1976 and the term "Secular" was added to the Preamble. The 42nd Amendment Act, also known as the Mini Constitution, is the Constitution's most comprehensive amendment[3].

DISCUSSION

From the past, it is clear that Indians have been sensitive to their religious values and practices. They grew disgruntled and revolted if a foreign emperor attempted to mess with the customs or religious traditions of the people. Mangal Pandey was compelled to act against his personal convictions, also the immediate reason behind the Rebellion of 1857 (the First War of Independence). He was obliged to pull the pistol cartridge from his mouth, which was assumed to be greased with a cow and pig lard mixture[4].

Cows are worshipped as 'mother' in Hinduism, while Muslims believe pigs are impure, not only denying pronouncing pigs, but also calling it a sin to think of pigs. It became a significant cause of rebellion as British citizens disrespected their religion and prompted people to rebel against the British Raj[4].

When it comes to their beliefs and belief, Indians are still the same. One of the most significant issues of their lives is their religious feelings. And today, they deem it their responsibility to defend their faith and have the accused blamed for it if anybody messes up with their religion and culture. It is not important, though, that any act against the confidence and conviction of another is wrong in the eyes of the law. There may be occasions where the religious feelings of persons are damaged without any legal mistake. Giving freedom of faith is thus not only necessary to protect people's religious interests, but also to determine the nature of what may be called a legal wrong against religion[5].

The limitation of morality that was historically of societal morality has now transformed into Constitutional Morality in India. But, in the constitution, this word is not stated anywhere. 'Legal Morality' is a concept coined by the judiciary that gives the judiciary so much control. The basic structure doctrine has already left too much power in the hands of the judiciary to interpret the constitution and decide anything according to their discretion as a fundamental structure, as there is no strict formula for deciding the same. If all previous cases of constitutional morality are studied, it can be concluded that it is seeking to conform the nation to the existing norms that offer 'life with dignity' dominance[5].

If its declaration of IPC Section 377 as illegal or the Sabarimala Judgment striking down the old tradition of not accepting women, constitutional morality aims to elevate culture. The fact remains that the court has an enormous power of discretion to decide cases. It is said: "Power corrupts and absolute power absolutely corrupts." It will be important to note how the court can exercise the authority it has under Constitutional Morality[6].

As a secular society, India gives all religions equal rights. Fair treatment does not mean that it necessarily allows and encourages its people to adopt a faith and its rituals, but often it entails intervening and bringing in meaningful reforms to improve society. An issue posed by recent decisions is whether it is appropriate for the court to determine the constitutionality of a procedure exclusively in order to create a right, even though it does not harm the majority of society[6].

This recent wave of modernism and feminism has set a pattern of challenging customs to create and explain as a human right the right to freedom that is open to us. While fighting for your right is not wrong, it is not something that a secular state can do to interfere with religious affairs only to claim a right and harm the religious feelings of some adherents[7].

Unless there is severe injury that damages a segment, the followers' religion and values should not be harmed. For instance, a tradition of keeping menstruating girls away from home is practiced in many countries, and this practice took away the life of a girl who was forced to remain in the hut because of her cycles during Cyclone Ganja. No matter how much emotions are bruised, those rituals must be scrapped off, but at the same time when a temple that does not allow a man or a woman to join, there must be no intervention by the State to guarantee the right to freedom of worship[7].

Along with the word secular, the term-secularization automatically emerges. Strictly speaking, secularization means "to transfer, possession, or control from ecclesiastical to civil or lay use." As Professor Casanova has pointed out, secularization as a notion refers to the real historical mechanism by which within "this world" this dualist system and the sacramental intermediary mechanisms between this world and the

other world eventually break down until the entire medieval classification system disappears, to be replaced by modern spatial structuring systems of the spheres[8].

Probably the best visual expression of this progressive architectural restructuring remains Max Weber's expressive picture of the shattering of the monastery walls. The wall within "this world" that divides the religious and secular worlds breaks down. The distinction between "this world" and "the other world," at least for the time being, persists. But from now on, there will be only one "this world," the secular one, in which religion must find its own place.' Secularization is a mechanism in which, among other decisions, belief ceases to be the main component of social stability, of common world explanation, to become an option[9].

India is home to the largest number of Hindus in the world and the second largest number of Muslims. This country, being home to millions of Buddhists and Christians as well, literally qualifies to be called the only adobe of all four world religions together. There are also large numbers of adherents of many other sects among the population of India, including the Jain, Sikh, Jew, and Bahai faiths. Religious tolerance and religious ideals have always had and continue to have a significant impact in India's pluralistic and multi-religious culture[10].

As mentioned above, one or another religion has the status of official or otherwise privileged status in all the other South Asian countries surrounding India. India stands out as the only secular state with no state religion and no single officially patronized religion in all nations. Religion-State ties are literally distinctive in every sense of the word in this region[10].

CONCLUSION & IMPLICATION

Religion plays a crucial role in the lives of humans. It plays an integral role in shaping people's minds. Religion plays an invaluable role in regulating the actions and behaviour of people, particularly in Indian society. Indians are strongly possessive when it comes to religion, and if anyone wants to obstruct them, they become alert. In order to prevent some kind of potential danger, it is important to preserve some decorum when exercising this right.

With respect to faith, India is the most diverse region. It does not have its own faith as a secular society, and every person has the right to choose, observe, promote and even change his or her religion. These privileges, however, are not absolute but are subject to certain legally provided limitations. No one can do any act that is contrary to public policy in the name of religion or that causes any kind of disruption or intolerance among the people of India.

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