

## SECULARISM IN THE EYE OF SWAMI VIVEKANANDA : ANALYTICAL PERSPECTIVE OF CONTEMPORARY INDIA

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*“The distinction between man and woman, between the rich and poor, the literate and illiterate, Brahmanas and Chandalas – he tried to root out all. And he was the harbinger of peace – the separation between Hindus and Christians, all are now things of the past. That fight about distinctions that there was, belonged to another era. In this Satya-Yuga the tidal wave of Shri Ramakrishna’s Love has unified all”.*

*-Swami Vivekananda<sup>2</sup>*

### I. Introduction

Shri Ramakrishna was the harbinger of peace and all embracing love in Indian society. He was the first person in the then India to promote the principle of Secularism and Common Brotherhood. The then Indian society and more specifically, the Hindu society was full of dogmatism, superstitions and religious rigidities. Since the very beginning Hindu religion was a liberal religion. The Vedic injunctions and texts of the Smritis produce ample examples of the liberal attitude of the Hindu religion. Moreover, Hindu religion has declared all embracing love for the other religions since the ancient period. The simple rules of conversion and re-conversion to Hinduism show the evidence of this liberal view. But, with the passage of time, Hindu religion has lost its liberal attitude, first in the medieval period and then in the modern or British period. Due to this reason, many Hindus have been converted to Muslim or Christians respectively in the Muslim or British period. At this juncture, it has become necessary to free the Hindu religion from its dogmatism and religious rigidities. Shri Chaitanya Dev and Shri Ramakrishna are the two great preachers of this period, who have brought a liberal attitude towards Hinduism. Shri Chaitanya Dev has performed Vaishnav religion, but Shri Ramakrishna has revived the Hindu religion itself. In this respect, his contribution towards the liberalization of Hinduism is noteworthy.

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<sup>2</sup> The Complete Works of Swami Vivekananda, Vol.VI, p.335.

Shri Ramakrishna's all embracing love for everyone irrespective of the caste, creed, race, religion, sex or place of birth has enlightened the then Hindu religious society and has impressed many persons to convert into Hindu religion. He has disregarded the difference between men and women, rich and poor, literate and illiterate as well as between Brahmanas and Chandalas. Not only that, he has also tried to remove the differences between Hindus, Muslims and Christians. According to him, all religions are equal, because all of those have originated from the words of God. He has also believed in the idea of unity of God. In this sense, he has tried to bring all religions under one umbrella. As such, he has propagated the ideas of Secularism and Common Brotherhood for all. Secularism is giving equal status to all religions and Common Brotherhood brings all persons at the same footing by removing the differences between them. These two ideals are the basic requirements for the peaceful co-existence of a civilized human society. Shri Ramakrishna has brought these in India and as such, he is called the harbinger of peace in Indian society. According to him, Secularism is all embracing love and by promoting it, he has tried to unify all Indians. Hence, it is called by the eminent thinkers that, Shri Ramakrishna has brought the Satya-Yuga in India.

The efforts of Shri Ramakrishna have been continued by his able disciple Swami Vivekananda. In fact, he is the only person, who has taken Hinduism in its highest peak from the perspectives of liberalism. Hindu religion has received the worldwide recognition with the hands of Swamiji. Swami Vivekananda, the living legend and great reformist of Indian history has propounded the spirit of common brotherhood for observance of all Indian citizens. According to his visionary eyes, the whole world is seen as a place of universal brotherhood. As such, he has propagated his message of brotherhood all over the world and more specifically, has asked Indians to follow this principle to construct a prosperous future society, where interest of everyone should be protected irrespective of the caste, creed, race, religion, sex, colour, nationality or place of birth. The then India, where he was born, was full of superstitions, beliefs, dogmatism, religious rigidities, casteism and untouchability. As such, it was necessary to enlighten the Indians in the light of wisdom for the sake of their future prosperity. Swamiji had taken the initiative and had prescribed the principle of humanism as the solution of all problems. He was actually the believer of humanism and considered human beings as above all. According to him, no religion can supersede the humanism. In this sense, all religions are equal and should serve the interests of the human beings. Unity of all religions worldwide and love for all beings together would create a peaceful atmosphere in the world society. Swamiji has brought the ideals of Secularism and Common Brotherhood from this perspective. He has proposed that observance of Secularism in Indian society is utmost important for providing equal status to all citizens and for promoting fellow

feeling among them. As such, he has upheld the principles of Secularism and Common Brotherhood in India.

The principle of 'Common Brotherhood' propounded by Swami Vivekananda was not confined within the national territory of India. In fact, he himself had introduced it in the *Chicago World Parliament of Religions in 1893*. The significance of the idea of Common Brotherhood was so important that, it was accepted by the United Nations in the post World War II era. The United Nations adopted the *Article 1* of the *Universal Declaration of Human Rights, 1948* to promote the idea of Universal Brotherhood all over the world. Based on the *Article 1* of the *Universal Declaration of Human Rights, 1948* and the Philosophy of Swami Vivekananda, *Indian Constitution* has been framed in 1950, after the Indian independence. The Preamble of the Indian Constitution has acknowledged the necessity of promoting Common Brotherhood in India by declaring 'Fraternity' as one of the ideals enshrined in the Preamble. Therefore, India needed the promotion of fraternity or brotherhood at the time of its inception as an independent Country. Since then, the Constitution has tried to enforce this principle by incorporating it in the whole body of its articles. But, the ideal of Fraternity or Common Brotherhood would become fruitless without the ideal of Secularism or all embracing love for all religions. As such, India has also incorporated this ideal in the Preamble of its Constitution.

Secularism is a doctrine that rejects religion and religious considerations. India has adopted this doctrine at the time of making the Indian Constitution, which is reflected in the Preamble of the Constitution, where the resolve of the people declares to secure to all its citizens, the liberty of worship. More emphasis has been given to this contention, when the word 'Secular' has been inserted expressly in the Preamble by the *42<sup>nd</sup> Amendment Act, 1976*. Apart from the Preamble, India has tried to enforce Secularism by guaranteeing the Freedom of Religion as a Fundamental Right under *Articles 25-28 of the Constitution*. But, while promoting and propagating Secularism, India has not accepted the traditional doctrine of rejection of religion. Rather, India has adopted the idea of Secularism as being neutral in matters of religion. In this sense, the State is neither anti-religion nor pro-religion, the State is neutral in the matter of religion and treats every religion equally. The equality of all religions can become a catalyst for promoting universal brotherhood in India. This is the concept of Swami Vivekananda for establishing universal brotherhood with the help of Secularism or equality of religions by rejecting the religious rigidities, dogmatism and unequal treatment of different religions. Hence, the idea of Secularism as propounded by Swami Vivekananda has been adopted in the Indian Constitution. In this respect, the paper would like to analyse the contemporary socio-legal issues in the light of the Indian Constitution and to find out the solutions of the contemporary problems.

## II. Secularism – The Concept

The idea of Secularism is not confined within the term ‘Religion’ only. In fact, Secularism is a doctrine that rejects religion and religious considerations. In this respect, Secularism is neither anti-religious nor pro-religious concept, it provides religious neutrality or equal status of all religions. In this respect, it can be easily assumed that, equal status of all religions denotes all embracing love for all religions from a certain direction. If anyone feels to love all religions, he or she is free to do that. This is the true meaning of Secularism. Swami Vivekananda has propagated and upheld this true meaning of Secularism. Moreover, he has prescribed observance of Secularism as all embracing love for all religions for the protection of humanity and humanism throughout the world.

According to Dictionary meaning, ‘Secular’ means worldly, not spiritual and not concerned with religion.<sup>3</sup> Therefore, ‘Secularism’ means the theory or doctrine which supports the worldly affairs and which is not spiritual or not concerned with religion. This is the literal meaning of the term ‘Secularism’. But, in a deep rooted study it is found that, worldly affairs include all earthly affairs, but does not exclude the affairs of the eternal world. World includes both human and eternal world. Religion is an aspect of the human world, by which human beings can connect with the eternal world. Religion is a path for attainment of ‘moksha’ or salvation. This is the perception of the religious preachers and every religion supports this view of the preachers. As Religion is an aspect of both the human and eternal world, worldly affairs cannot exclude the idea of Religion. In this sense, Secularism cannot outright reject the concept of Religion. As such, the true meaning of Secularism is not anti or pro-religion, but providing respect and equal status to all religions.

In the case of *Santosh Kumar v. Secy. Ministry of Human Resources Development*,<sup>4</sup> the Supreme Court of India has tried to provide a concrete meaning of the term ‘Secularism’. The Court has said as follows:-

“State tolerance of religion, does not make it either a religions or a theocratical State. Secularism represents faith born out of the rational faculties and it enables to see the imperative requirements for human progress in all aspects. Secularism is neither anti-God nor pro-God, as it treats alike the devout, agnostic and the atheist”.<sup>5</sup>

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<sup>3</sup> Nani Gopal Aich, Progressive English-Bengali Dictionary, 1991, p.1163.

<sup>4</sup> AIR 1995 SC 293.

<sup>5</sup> J. N. Pandey, *Constitutional Law of India*, Central Law Agency, Allahabad, 40<sup>th</sup> Edn., 2003, p.284.

Accordingly, Supreme Court of India has upheld the status of Secularism as a faith on rationalism, which is imperative for human progress in all aspects. As such, it has upheld the humanism in all respects, which is nothing but the Swami Vivekananda's views of humanism and Secularism. Again, the Supreme Court also supports the idea that, Secularism treats alike the devout, agnostic and atheist. In this sense, Swami Vivekananda's views of Secularism to provide equal status to all religions and all embracing love for every human being are again established. Therefore, Secularism can never provide religious rigidities or enmity among different religions. All these are creations of the greedy, selfish and narrow minded persons, who are always endowed with the fulfillment of their selfish intentions. Swami Vivekananda's goals to establish an ideal secular state is, therefore, very much relevant and appropriate.

*Dr. S. Radhakrishnan*, former President of India, has in his book '*Recovery of Faith*',<sup>6</sup> explained Secularism in India, as follows:-

“When India is said to be a secular State, it does not mean that we reject the reality of an unseen spirit or the relevance of religion to life or that we exalt irreligion. It does not mean that secularism itself becomes a positive religion or that the State assumes divine prerogatives . . . We hold that not one religion should be given preferential status . . . This view of religious impartiality, or comprehension and forbearance, has a prophetic role to play within the national and international life”.

The above contention regarding Secularism projects towards the most important components of Secularism in India, which are stated hereunder:-

- 1) *Samata (equality) as incorporated in Article 14.*
- 2) *Prohibition against discrimination on the ground of religion, caste etc., as incorporated in Articles 15 and 16.*
- 3) *Freedom of speech and expression and all other important freedoms of all the citizens as conferred under Articles 19 and 25.*
- 4) *Right to practice religion as conferred under Articles 25 to 28.*
- 5) *Fundamental duty of the State to enact uniform civil laws treating all the citizens as equal, as imposed by Article 44.*
- 6) *Sentiment of majority of the people towards the cow and against its slaughter as incorporated in Article 48.*<sup>7</sup>

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<sup>6</sup> Dr. S. Radhakrishnan, *Recovery of Faith*, p.34.

Therefore, the value of Secularism as a religious neutral concept has been accorded in India. This idea has been upheld both by the Supreme Court of India as well as the Indian Constitution. Moreover, Swami Vivekananda's views of Secularism are embedded in every part of the Constitution and Indian Judiciary, which no one can disregard.

### III. The Backdrop

Secularism is not a modern concept, rather it has age-old origin. Though this concept is found in the Western World, but the Indian concept of Secularism is not originated therefrom. India has its own idea of Secularism since the ancient period, which has been flourished to its modern version simultaneously with the Western World. In fact, India has enlightened the Western World with the true perspectives and values of Secularism on various occasions. The Western concept of Secularism is only the separation of religion from political affairs, but Indian concept is somewhat different from it. India has propounded true value to the concept of Secularism by establishing equality for all religions in India. The propounders of this view of Secularism in India are *Shri Ramakrishna, Swami Vivekananda, Mahatma Gandhi, Dr. S. Radhakrishnan, Pandit Jawaharlal Nehru, Smt. Indira Gandhi, Shri Rajiv Gandhi*. Most of these eminent persons have tried to propagate the ideas of Indian Secularism throughout the World.

However, the western background of Secularism is pertinent to mention in this respect. The political philosophy of a secular government has been developed in the west in the historical context of the pre-eminence of the established Church and the exercise of power by it over society and its institutions with the burgeoning presence of diverse religious groups and the growth of liberal and democratic ideas, religious intolerance and the attendant violence and persecution of "non-believers" have been replaced by a growing awareness of the right of the individual to profession of faith, or non-profession of any faith. The democratic State gradually replaced and marginalized the influence of the Church.<sup>8</sup> As such, in the Western Countries, influence of Church has been the prior element of a civil society. In the ancient and medieval period, western societies have been submerged in the darkness of orthodox parameters and religious rigidities of the Christian Church, which have prevented the progress and development of Western societies.

This situation has been gradually changed at the dawn of modern period and with the occurrence of renaissance and industrial revolution. The

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<sup>7</sup> Justice R.C. Lahoti, *Preamble: The Spirit and Backbone of the Constitution of India*, Eastern Book Company, Lucknow, 1<sup>st</sup> Edn., 2004, p. 88.

<sup>8</sup> Id at pp.86-87.

emergence of these two events has developed the scientific temper among Western thinkers, owing to which the Western World has thrown away the Church control over their social activities. Consequently, democratic thought, liberalism, individualism and humanism have been developed therein, instead of orthodox religious rigidities of the Christian Church. The old Western laws have also been based on the ecclesiastical authorities and Church courts, which have been replaced by the rational laws and civil courts with the advent of Protestant group of Christians contrary to the Catholics. Therefore, with the growth of modernity and liberalization as a whole, the concept of Secularism has been developed in the Western world.

Another important point should be mentioned in this respect. The meaning of the term 'Secularism' is not same in all the Western Countries. In fact, it has assumed different meanings in different countries, based on the origin and historical significance of the term in a particular country. Moreover, the socio-political and cultural thought of a particular country is also responsible for the divergent views towards Secularism. In this respect, the European and American thought of Secularism is noteworthy, because the Indian Polity is based on the Constitutionalism of these countries. Though the Indian Secularism, in essence, differs from the Secularism of these countries, but that does not mean that, Secularism of these countries is insignificant for a matter of discussion in this context. Therefore, the discussion is placed hereunder.

At the time of its formations after independence, India has not adopted the stereotype of Secularism evolved in Europe and embodied in the American constitution. According to the Constitution-makers of India, the American doctrine of 'wall of separation' is unsuitable to serve the needs of a plural, traditional and under-developed society. Like India. Again, Secularism in the European tradition means complete separation between *sacerdotium and imperium*. It has been a reaction against the attempt of one to dominate the other and the long history of conflict between the two. As India has never undergone that experience, this European model is also unsuitable to India.<sup>9</sup> Due to these reasons, Indian Constitution-makers have adopted a separate model of Secularism, typical in the Indian context and as different from the European or American model of Secularism.

An *Australian Professor A. R. Blackshield* has compared the implications of Indian Secularism from a functional point of view, which are stated hereunder:-

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<sup>9</sup> R. K. Mishra, "Nehru and Secularism", in Rajeev Dhavan and Thomas Paul (eds.), *Nehru and the Constitution*, Indian Law Institute, New Delhi, N. M. Tripathi Pvt. Ltd., Bombay, 1992, pp.161-181 at p.165.

“Secularism, it suggests, is not opposed to religion as such; it is opposed rather to the use of religious institutions, and religious motivations, in the legal-political and educative processes. It insists on a functional division of aptitudes – a kind of social separation of powers – between different kinds of social activity. Religion, education and law should not over-reach their own spheres of propriety. So long as religion does keep to its own sphere secularism is religiously neutral; it neither endorses nor disapproves of religiousness”.<sup>10</sup>

This view of Indian Secularism is different from the classic American articulation of total distance, and non-discrimination, which has clearly been expressed by *D. E. Smith* as follows:-

“The secular state is a State which guarantees individual and corporate freedom of religion, deals with the individual as a citizen irrespective of his religion, is not constitutionally connected to a particular religion nor does it seek either to promote or interfere with religion”.<sup>11</sup>

In the backdrop of Western political thoughts of Secularism, India has tried to formulate its own unique blend of Secularism suitable to the multi-cultural and multi-linguistic Indian society and ultimately it has succeeded in doing so. As such, India has established its own dimension of Secularism based on its own rich cultural heritage of all embracing love for all human beings.

#### **IV. The International Legal Scenario**

The principles of Secularism and Common Brotherhood propounded by Swami Vivekananda were not confined within the national territory of India. In fact, he himself had introduced these ideas in the *Chicago World Parliament of Religions in 1893*. The significance of the idea of Common Brotherhood was so important that, it was accepted by the *United Nations* in the post *World War II* era. The *United Nations* adopted the *Article 1 of the Universal Declaration of Human Rights, 1948* to promote the idea of Universal Brotherhood all over the world. *Article 2* is a supporting article of *Article 1*, which spreads the message of equality and non-discrimination among human beings throughout the world. Based on the *Article 1 of the Universal Declaration of Human Rights, 1948* and the philosophy of Swami Vivekananda, Indian Constitution has been framed in 1950, after the Indian

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<sup>10</sup> A. R. Blackshield, “Secularism and Social Control in the West : The Material and the Ethereal,” in G. S. Sharma (ed.), *Secularism : Its Implications for Law and Life in India*, 1966, p.13.

<sup>11</sup> D. E. Smith, *India as a Secular State*, 1963, p.4.

independence. The Preamble of the Indian Constitution has acknowledged the necessity of promoting Common Brotherhood in India by declaring 'Fraternity' as one of the ideals enshrined in the Preamble. Therefore, India needed the promotion of fraternity or brotherhood at the time of its inception as an independent country. Since then, the Constitution has tried to enforce this principle by incorporating it in the body of its articles.

Promotion of Common brotherhood alone is impossible and as such, it is needed to be coupled with Secularism. When Secularism or all embracing love for all human beings is promoted, the ideal of Common brotherhood would be automatically promoted. This perception is equally applicable in the international as well as Indian legal scenario. As such, in the international legal field *United Nations* has tried to promote Secularism also by way of enactment of *Universal Declaration of Human Rights, 1948*. It is a long list of human rights declared by the *United Nations* for the purpose of universalization of human rights as well as for the promotion and protection of all human rights throughout the world. The *Preamble of the Universal Declaration of Human Rights, 1948* clearly expresses that, the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". As such, "it is essential to promote the development of friendly relations between nations". In order to promote that friendly relation as well as for "the promotion of universal respect for and observance of human rights and fundamental freedoms", this declaration has been adopted by the United Nations. Therefore, the objective of this declaration is to uphold human dignity by protection of human rights and fundamental freedoms all over the world. When the equal protection of those rights and freedoms are guaranteed worldwide, the equal status of all human beings would be recognized in all aspects. As such, they would enjoy their freedom of religion and the ideal of Secularism would be automatically upheld.

Moreover, the idea of 'Secularism' has been expressly included in *Article 18 of the Universal Declaration of Human rights, 1948*, which runs as follows:-

**Article 18**

*"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, to manifest his religion or belief in teaching, practice, worship and observance".*

This article clearly recognizes the right to freedom of religion of every human being throughout the world. An individual can enjoy this right in all its forms and manifestations without any interference. As such, this

article provides freedom to all human beings in matters of religion, which is nothing but another name for promotion of Secularism worldwide. In this sense, United Nations has tried to protect and promote Secularism in the international legal scenario.

Hence, *Article 18 of the Universal Declaration of Human Rights, 1948* is not alone in the international legal order to promote Secularism. *Article 18 of the International Covenant on Civil and Political Rights, 1966* is a supporting article in this respect, which has further elaborated and enunciated Secularism by way of promoting right to freedom of religion in the international legal fraternity. This article runs as follows:-

#### **Article 18**

*“1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt religion. This right shall include freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*

*2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*

*3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals of the fundamental rights and freedom of others.*

*4. The State Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”.*

Therefore, this article has provided the same freedom – the freedom of religion to all human beings throughout the world as has been provided in *Article 18 of the Universal Declaration of Human Rights, 1948*. This article is just an extension and elaboration of the previous article, which has provided more freedom in the hands of the individual citizens of the State Parties of the said Covenant. Whenever freedom of religion is protected, Secularism is obviously promoted. Hence, this is another good initiative of the United Nations for the promotion of Secularism in the international legal fraternity.

#### **V. The Indian Legal Arena**

India is a land of ‘Unity in Diversity’ and as such, entry and exit of numerous people in India has been a very common phenomenon since the ancient period. It is a conglomeration of socio-cultural-religious-political

and ethnic diversities. Though it has welcomed different religions, but it has been a Hindu country since the ancient period. The Vedic injunctions and Smritis and Commentaries based on those have produced ample examples of this. At that point of time, Indian Hinduism has taken a very liberal attitude and has followed the true spirit of Hinduism. Hinduism is not only a religion, but is a way of life, which includes many ideas within it along with ethism. It contains the most liberal attitude towards other religions and all t contains the most liberal attitude towards other religions and all embracing love for all human beings. This idea of the early Vedic period has been gradually replaced in the later Vedic period with the casteism, untouchability, religious rigidities and superstitious belief. Accordingly, inter-caste dining and inter-caste marriage have been prohibited among Hindus.

During the medieval period, when Muslims have come to India, a new religion, called Islam, has been introduced herein. Consequently, discrimination on the ground of religion, force conversion to Islam, religious intolerance and violence in the name of religion has been started. Again, in the modern period, with the advent of British in India, another new religion, called Christianity has been introduced herein. Many Hindus and Muslims of the then India have been converted to Christianity to get relief from the religious rigidities of their own religions. As such, India has become a land of multi-religious practices. Gradually, Buddhism, Jainism and Sikhism have taken place in India to revitalize the liberal attitude of Hinduism. Also the religious preachers, like *Shri Ramakrishna*, *Swami Vivekananda* and *Shri Chaitanyadev* have come into being to enlighten the common masses of India with all embracing love for all human beings by removing the religious rigidities and discrimination on the ground of religion. As such, the ideal of Secularism has been established in India. Though the traces of Secularism have been found in India since the ancient period, but the true spirit of Secularism has been realized in India during that period of *Shri Ramakrishna* and *Swami Vivekananda*.

In the pre-independence era, the assurance of religious freedom and establishment of secular state in India has been the response of *Pandit Jawaharlal Nehru* and other nationalist leaders to the demand of the Muslim minority for separate electorate and separate homeland for Muslims. *The Commonwealth of India Bill, 1925* has been moved in the *British House of Commons* on behalf of the Indian nationalist leaders, which has contained a provision for “*freedom of conscience and the free profession and practice of religion*”.<sup>12</sup> The list of fundamental rights in the *Nehru Committee Report* has also included “*freedom of conscience and the free profession and*

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<sup>12</sup> Shiva Rao, Framing of the Indian Constitution: *Selected Documents*, Vol.I, p.43.

*practice of religion . . . subject to public order or morality*".<sup>13</sup> *The Indian National Congress* has all through stood by its commitment to guarantee religious freedom to the minorities.<sup>14</sup> Moreover, the election manifesto issued by the *Congress* in 1946 has also promised neutrality of the state in religious matters.<sup>15</sup> All these instances produce ample evidence of the efforts to establish Secularism in the pre-independent India.

In spite of these initiatives to establish Secularism in India, further developments have not been made in the post-independence era. The term 'Secularism' has not expressly included in the *Preamble of Indian Constitution* at the time of its inception in 1950. But, there has been the existence of spirit of Secularism in the draft Preamble, because certain amendments in the draft Preamble on this ground have been rejected by the Drafting Committee. One of such has been the proposal to insert into the words "*In the name of God*". That proposal has been rejected on the ground that, it would be inconsistent with the freedom of faith, which has not only been promised in the Preamble itself, but has also been guaranteed as a fundamental right.<sup>16</sup> This is one express example of including Secularism in the Preamble of the Indian Constitution, the spirit of whom is found in enacting *Articles 25-28* of the Indian Constitution, which deal with the fundamental right to Freedom of Religion.

Later on, the process of adding the word 'Secular' in the Preamble has been started. The word 'Secular' has been sought to be defined in the *Constitution (45<sup>th</sup> Amendment) Bill, 1978*, which on its passage has become the *44<sup>th</sup> Amendment Act. Clause 44 of the said Bill* has sought to amend *Article 366 of the Constitution* and has provided that, *Clause(1) of the proposed amended Article 366* should bear "*In the Preamble to this Constitution – the expression Republic qualified by the expression 'Secular' means, a republic in which there is equal respect for all religions*". In this respect, it is important to note that, where the State professes a particular religion, or lays down that the head of the nation must belong to a particular faith, then that State is not a secular state. A secular state is one where the Constitution is above religion; a sacerdotal State is on the other hand a State

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<sup>13</sup> Id at p.58.

<sup>14</sup> The resolution on fundamental rights and duties passed by the Indian National Congress at its Karachi Session in 1931. The resolution provided that every citizen shall enjoy freedom of conscience and the right freely to profess and practice his religion subject to public order and morality; The resolution of the Congress Working Committee in 1939 demanding a Constituent Assembly to frame the Constitution for India. The resolution promised that the rights of minorities would be protected to their satisfaction; Gwyer and Appadorai, *Speeches and Documents on the Indian Constitution*, Vol.II, pp.496-497.

<sup>15</sup> Rosinger, *Restless India*, p.121.

<sup>16</sup> *Constituent Assembly Debates*, Vol.10, pp.432-442.

where religion is above the Constitution. However, the word 'Secular' has been inserted in the Preamble by the *Constitution (42<sup>nd</sup> Amendment) Act, 1976*. The object of inserting this word, as explained in the Statement of Objects and Reasons has been to spell out expressly the high ideas of Socialism, Secularism and integrity of the nation, because these institutions have been subjected to considerable stress and strains and vested interests have been trying to promote their selfish ends to the great detriment of public good. In short, the object of the Government in making the impugned amendment, has been to make explicit what has already been provided in the Constitution, but which, in the absence of such emphasis, has been misused by 'vested interests' to promote their 'selfish ends'.

## **VI. The Value of Secularism Under the Indian Constitution**

Apart from the Preamble, India has tried to enforce Secularism by guaranteeing the Freedom of Religion as a Fundamental Right under *Articles 25-28 of the Constitution*. But, while promoting and propagating Secularism, India has not accepted the traditional doctrine of rejection of religion. Rather, India has adopted the idea of Secularism as being neutral in matters of religion. In this sense, the State is neither anti-religion nor pro-religion, the State is neutral in the matter of religion and treats every religion equally. Specifically these articles deal with the following rights:-

*Article 25 – Right to Freedom of Religion.*

*Article 26 – Freedom to manage religious affairs.*

*Article 27 – Freedom from taxes for promotion of any particular religion.*

*Article 28 – Prohibition of Religious Instruction in State-aided Institution.*

*Article 25* is the most important article among all these articles. It guarantees to every person the freedom of conscience and the right to profess, practice and propagate religion. This article is the most debatable one also, because of the guarantee of free propagation of religion under this article. A number of times it is pointed out that, the guarantee of free propagation of religion under this article would go against the spirit of Secularism propounded in the Constitution, because one's free propagation of religion may hamper others' freedom of religion or hurt their religious sentiments. But, the Constituent Assembly Debates and the Supreme Court of India have tried to clear the misconception in this respect by providing proper interpretation to this article. In fact, the freedom of conscience and the right to freely profess, practice and propagate religion under *Article 25(1)* have been subjected to 'public order, morality and health', as well as to 'the other provisions of this part'. In this respect, it is significant that, in guaranteeing religious freedom the Constitution follows a specific pattern. As such, the freedom of religion guaranteed under this article is subjected to certain exceptions and it is not an absolute freedom. These restrictions have

been imposed to prevent the violation of religious freedom at the time of exercising one's religious freedom.

Therefore, the Constitution rather than leaving it to the legislature to impose restrictions on religious freedom from time to time, delimits this freedom in such a manner that even in the absence of legislative curtailment, it can be claimed only in the matters of public order, health, morality and most important, other provisions of this part. The underlying meaning lies behind it is that, religious freedom under the Constitution would be subject to other fundamental rights also, like Right to Equality, Right against untouchability, Right to freedom and Right to Personal Liberty.<sup>17</sup> As such, religious freedom guaranteed under the Constitution is restricted in the interest of providing religious freedom to all religions. This intention of the Constitution-makers clearly portrays the idea of upholding the spirit of Secularism within the Constitutional framework in India.

The value of Secularism under the Indian Constitution rests in the backbone of balancing religious freedom among every section of the society, be it individual or denomination or group or institution. The Constitution is neither anti-religion nor pro-religion, it is neutral in the matter of religion and treats every religion equally. It has enacted the *Articles 25-28* to express this spirit and as such, all these articles portray the true value of Secularism within the Indian Constitutional framework.

## **VII. The Judicial Interpretation**

The role of Indian Judiciary for the promotion and protection of Secularism is noteworthy. In fact, Indian Supreme Court has upheld the ideal of Secularism in its various judgments. Moreover, it has decided various important issues on the basis of the promotion and protection of Secularism in India. Some of those judgments are discussed hereunder.

In *Ratilal v. State of Bombay*,<sup>18</sup> certain provisions of the *Bombay Public Trusts Act, 1950* have been challenged as violating *Articles 25 and 26 of the Constitution*, because *Sections 55 and 56* of the said Act which have embodied the doctrine of Cypriss, have been impugned as violative of fundamental rights. The Court held that, *Sections 55 and 56* are void as regards the religious sect or denomination, which has the undoubted right to manage its own affairs in matters of religion and it includes the right to spend the trust property or its income for the religious purposes or objects as indicated by the founder of the trust.

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<sup>17</sup> Supra Note 09 at p.169.

<sup>18</sup> AIR 1954 SC 388.

In *Mohd. Hanif Qureshi v. State of Bihar*,<sup>19</sup> the question has been raised whether the prohibition of cow slaughter would affect the religious rights of Muslims. It has been contended that, the sacrifice of a Cow on the Bakr-Id Day has been enjoined by the Quoran and/or has been a part of religion. The Supreme Court held that, the evidence is very unsatisfactory as the petitioner has not made out their case and held that, it is necessary to act that a religious practice need not be universal and a religious practice is not negative, because it is shown to be limited to certain religious denominations.

The most important judgment in this respect is *S. R. Bommai v. Union of India*,<sup>20</sup> which has upheld the status of Secularism in the Preamble of the Constitution of India by declaring it as a part of Basic Structure of the Indian Constitution. In this case, the following propositions have been emerged regarding Secularism:-

- (i) *Secularism is a part of the basic structure of the Constitution.*
- (ii) *This Secularism, inter alia, means that the freedom of religion which is guaranteed by the Constitution only permits the free pursuit of spiritual life as distinct from secular life, which pertains to the exclusive domain of the affairs of the State. Secularism, thus, prohibits any encroachment of religion into secular activities and prohibits any citizen from mixing religion into a political activity such as, election, over and above what is already contained in Sections 123(3), (3-a) of the Representation of the People Act, 1951.*
- (iii) *Secularism, which is a “basic feature” of our Constitution, implies that in matters of State, religion has no place. While freedom of religion is guaranteed to all persons in India, from the point of view of the State, the religion, faith or belief of the person is immaterial. No political party can simultaneously be a religious party. Politics and religion cannot be mixed. Any State Government which pursues unsecular politics or unsecular course of action acts contrary to the Constitutional mandate and renders itself amenable to action under Article 356.*<sup>21</sup>

Therefore, the above propositions regarding Secularism provide the idea that, so far, Indian Judiciary has taken active steps for the protection and promotion of Secularism in India. Indian Supreme Court has not only tried to define the term ‘Secularism’, but has also tried to determine its limits. In this respect, the most important initiative is to recognize Secularism as a part of Basic Structure of the Constitution. Secularism has

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<sup>19</sup> AIR 1959 SC 731.

<sup>20</sup> (1994) 3 SCC 1.

<sup>21</sup> Supra note 7 at pp.55-56.

got a new status and inviolability with that recognition. In this sense, *S. R. Bommai Case* has given a landmark judgment to provide a new dimension towards the ideal of Secularism.

### **VIII. Indian Secularism in the Eye of Swami Vivekananda**

Secularism or the equality of all religions can become a catalyst for promoting universal brotherhood in India. This is the concept of Swami Vivekananda for establishing universal brotherhood with the help of Secularism or equality of religions by rejecting the religious rigidities, dogmatism and unequal treatment of different religions. Hence, the idea of Secularism as propounded by Swami Vivekananda has been adopted in the Indian Constitution.

The views of Swami Vivekananda regarding Secularism can be understood from the following words:-

“I am proud to belong to a religion which has taught the world both tolerance and universal acceptance. We believe not only in universal toleration, but we accept all religions as true. I am proud to belong to a nation which has sheltered the persecuted and the refugees of all religions and all nations of the earth”.<sup>22</sup>

Therefore, in the eye of Swami Vivekananda, Secularism has the two basic tenets – Tolerance and Universal Acceptance. Indian Secularism has circumsphered around these two basic tenets since the very early period. Even the Vedantic philosophical thoughts have contained these ideals as well. In this respect, it is pertinent to mention that, one of the important fruits of Indian Philosophical thought was the broadening of the Indian religious outlook. The discovery of the spiritual unity of all existence, and the emphasis on spiritual realization as the goal of religion, has been fostered inter-religious harmony. India has the unique record of combining in her outlook and behaviour deep religious faith and feeling with broad tolerance and the spirit of acceptance. This can flow only from a conception of God which is infinite and all-embracing. This is the idea of Indian Secularism in the eye of Swami Vivekananda which projects all embracing love for all without any discrimination. In the contemporary social scenario Indian Secularism is threatened due to various socio-legal problems. Some of those problems are mentioned hereunder:-

- i) The Indian Youths have lost their tolerance.
- ii) They have forgotten the teachings of Swami Vivekananda.
- iii) Secularism today is enjoyed as freedom of all religions only.

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<sup>22</sup> The Complete Works of Swami Vivekananda, Vol.I, pp.3-4.

- iv) India has forgotten that Secularism means infinite and all embracing love.
- v) We have forgotten that Secularism is to give shelter to every human being.
- vi) India has retreated from the true spirit of Secularism.
- vii) Secularism today is not used to promote the universal brotherhood.
- viii) Every part of India is craving for a separate state due to provincialism and for narrow political gains.

## **XI. Conclusion and Suggestions**

Indian Society is a plural society and India is a land of unity and diversity. Persons of different race, religion, colour, creed and sex have contributed at different times in different manner towards the progress and development of Indian society. Indian culture is the product of that multi-tasking composition. Indian religion is also the product of those multi-dimensional efforts. Indian religion is a culmination of different religions since the very beginning. Therefore, adoption of Secularism is obvious in India. Tolerance and universal acceptance of all religions are the common features of Indian Secularism since the ancient period. In this sense, if Secularism is continued, the rich heritage of Indian composite culture would be preserved and not otherwise. But, at the present social scenario, religious intolerance has flourished to a great extent throughout the country. Consequently, majoritarian forces are trying to break the country into pieces for provincialism and narrow political gains. Secularism alone can prevent the destruction of the country in this manner with the help of tolerance and universal acceptance. The ideals of Swami Vivekananda's Secularism should be implemented in this respect. Then only India can stand in a sound footing towards the future society.

Though the contemporary socio-legal problems have threatened the age-old conception of Indian Secularism, but the situation can be changed with the help of tolerance and universal acceptance, which should be introduced again among the common Indian masses, especially among the youths. A few Suggestions may be cited in this respect:-

- i) The Indian Youths should increase their tolerance.
- ii) They should follow the teachings of Swami Vivekananda.
- iii) Secularism should not be enjoyed as freedom of all religions only.
- iv) Indians should remember that Secularism means infinite and all embracing love.

- v) It is high time to bring back the old Indian heritage of Secularism to give shelter to every human being.
- vi) India should resort again to the true spirit of Secularism.
- vii) Secularism should be used to promote the universal brotherhood.
- viii) India should not be divided into parts due to provincialism and for narrow political gains.