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# Implication of Minority Rights in the Secular India

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## ABSTRACT

*Secularism and existence of different minority communities depict the pluralistic nature of India. The principle of unity in diversity in the Constitution of India acknowledges the secular nature of the Nation. Secularism in India gives assurance to equal treatment of all religions. The Indian concept of secularism is deep rooted in religious tolerance and common brotherhood which is highlighted in the Preamble of the Constitution of India. The Constitution of India does not define the term 'minority'. Articles 29 and 30 of the Constitution of India specifically refers to religious and linguistic minorities. Minorities are generally considered to be socially, economically and politically non-dominant and numerically inferior sections of the society. They require special care and protection to come forward from the caves of backwardness and insecurity.*

**Keywords:** *Secularism, Minorities, Minority Rights, Religious Tolerance, Judicial Interpretation.*

## I. INTRODUCTION

India is a secular country which is very much rooted in values and principles of different spiritual and religious doctrines or ideologies. India recognizes and appreciate the existence of different religions and accept the fact that the country has no State religion. India has developed a unique concept of secularism over the years treating all religions equally. The citizen of India has the fundamental right to believe in any religion of his choice and propagate his belief and ideas without curtailing the secular nature of the Country. India is a land of various minorities linked to different religions or belief system. The Constitution of India uphold the protection of minorities without affecting the secularistic nature of the country. The Secular character of the Constitution is considered as the basic structure of the Constitution of India. Despite of the constitutional safeguards of minority rights, minorities face discriminations and struggle to claim their rights. A new trend developed in the Indian society that minority rights affect the secular character of the Nation. The Judiciary as the guardian of the Constitution of India protects the rights of minorities and maintains the secularism as the basic structure of the

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Constitution. The researcher paper is an attempt to understand the concept of minority rights and secularism and their relation in the Indian scenario. The paper also draws attention to the ambiguity present in the Indian society related to religions and minorities.

It shows that the attempts made to elevate the minorities through these minority rights are futile when basic civic laws are inherently discriminatory in nature. In order to highlight this, the paper not only examines those rights which are specifically provided to minorities, but studies civic laws in general, and their effects on religious minorities. The paper attempts to show that these laws do not bridge the gap between the minority and majority religions in India, but lead to further conflicts, and at times, result in violence.

## II. GENERAL CONCEPT OF MINORITY

The word minority is derived from the medieval Latin word ‘minor’ and suffix ‘ity’ which means state of being small, lesser or smaller.<sup>3</sup> Thus, primarily the word minority has the meaning in numerical or statistical terms. According to Merriam Websters Dictionary the term ‘minority’ refers to the “smaller in number of two groups constituting a whole or a part of a population differing from others in some characteristics and often subjected to differential treatment.”<sup>4</sup> Collins Dictionary gives the definitions of minority as a “group of people of the same race, culture, or religion who live in a place where most of the people around them are of a different race, culture, or religion.”<sup>5</sup> Since 19<sup>th</sup> century the term minority also refers to the group of people. According to the New Encyclopedia Britannica the “minority is a culturally, ethnically or racially distinct group living within a larger society.”<sup>6</sup> Subordinate to dominant group in the midst of a larger society can be notified as a defining characteristic of a minority. Minority must have definite and recognizable characteristics that distinguish them from the rest of the society.<sup>7</sup> Minorities are disadvantaged, politically weak and relatively poor sections of the society. General understanding of the term minority is the group of people which is numerically smaller than the dominant group of the society.

Louis Wirth has given the sociological definition to the minority as a group of people who are singled out from others in the society in which they live because of their physical or cultural characteristics for differential and unequal treatment and who therefore regard themselves as objects of collective discrimination.<sup>8</sup> Minorities are identified by the society based on their

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<sup>3</sup> Online Etymology Dictionary, <https://www.etymonline.com/word/minority> (last visited Jan. 10, 2022).

<sup>4</sup> Merriam Webster, <https://www.merriam-webster.com/dictionary/minority> (last visited Jan. 10, 2022).

<sup>5</sup> Collins, <https://www.collinsdictionary.com/dictionary/english/minority> (last visited Jan. 10, 2022).

<sup>6</sup> Pausala Yaka Swamy, *Minorities 1* (APH Publishing Company 2012)

<sup>7</sup> Rajendra Pandey, *Minorities in India: Protection and Welfare 4* (APH Publishing Corporation 1997).

<sup>8</sup> Hans van Amersfoort, *‘Minority’ as a Sociological Concept*, 1 *Ethnic and Racial Studies* 218 (1978).

physical or behavioral characteristics. The society treats the minorities as per the status or their identity. American Sociologist Joe Richard Feagin identifies five characteristics of minorities such as “(i) suffering discrimination and subordination, (ii) physical or cultural traits that set them apart and which are disapproved by the dominant group, (iii) a shared sense of collective identity and common burdens, (iv) socially shared rules about who belongs and who does not determine minority status, and (v) tendency to marry within the group.”<sup>9</sup>

International organizations do not have a common consent upon the definition of minority. Treaties established after the I World War comprise clauses dealing with the protection of minorities. The League of Nations system for the international protection of minorities originated at the Paris Peace Conference of 1919. As per League of Nation minorities are groups of persons who differ in race, religion or language from the majority of the inhabitants of the country. League of Nations emphasized the need for the protection for racial, religious or linguistic minorities.<sup>10</sup> United Nations also failed to give a clear definition of what constitutes a minority. The mostly accepted theoretical definition of minority is given by the Francesco Capotorti, a special reporter of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. He has defined a minority group as: “a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language”.<sup>11</sup> Article 27 of the United Nation’s International Covenant on Civil and Political Rights illustrates “ethnic, religious or linguistic minorities and persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”<sup>12</sup> According to the Proposal for an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights and Fundamental Freedoms national minority refers to a “group of persons in a state who reside on the territory of the state and are citizens thereof; mainly longstanding, firm and long lasting ties with a state; display distinctive ethnic, cultural, religious or linguistic characteristics; are sufficiently representative, although smaller in number than the rest of the population of the state or of a region of the state.”<sup>13</sup>

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<sup>9</sup> Joe R. Feagin, *Racial and Ethnic Relations* 10 (2<sup>nd</sup> ed. Prentice-Hall 1984).

<sup>10</sup> Carole Fink, *The League of Nations and the Minorities Question*, 157 SPRING 197, (1995).

<sup>11</sup> <https://www.ohchr.org/en/issues/minorities/pages/internationalallaw.aspx>

<sup>12</sup> General Assembly Resolution 2200 (Xxi) of 16 December 1966 (<http://www.un-documents.net/iccpr.htm#article-27>).

<sup>13</sup> Antonija Petricusic, *The Rights of Minorities in International Law: Tracing Developments in Normative*

### III. INDIAN CONCEPT OF MINORITIES

India is home of different religions, language, culture, scripts, race etc. The Constitution of India uses the term minority or minorities only four times but doesn't define the term minority or minorities. The Indian Constitution recognizes two types of minority communities in India under Article 30 namely, religious and linguistic. The Constitution does not give any criteria or factor to determine minority. Article 29 and 30 of the Constitution of India provides the guarantee of minority rights. The Supreme Court of India in *In re Education Bill* case held that the minority means a community which is numerically less than 50 percent of the total population.<sup>14</sup> Kerala High Court also upheld the same statistical criteria to define the meaning of minority in *A.M.Patroni v. Kesavan* case. It was held that any linguistic or religious community is considered a "minority" if the community population of 50% of the total population.<sup>15</sup> But the confusion continues regarding the unit to determine minority, whether total population of a State or Country as whole is to be considered. It was addressed in the case of *TMA Pai Foundation v. State of Karnataka*.<sup>16</sup> In this case, an 11 Judge's bench held that State has to be considered as the unit to determine whether a community as minority or not. In *Islamic Academy of Education v. State of Karnataka*<sup>17</sup>, the court observed that economic welfare of the community is also to be considered to determine whether a community comes under the ambit of minority or not.

The National Commission for Minorities Act 1992 defines 'minority' in Section 2 (c), "as a community notified as such by the Central government".<sup>18</sup> As per the Census 2011, the percentage of minorities in the country is about 19.3% of the total population of the country.<sup>19</sup>

#### (A) Religious Minorities In India

The Central Government in 1993 and 2014 has notified six religious communities, namely, Muslims, Sikhs, Christians, Buddhists, Zoroastrians (Parsis) and Jains as minority communities in India.

#### (B) Linguistic Minorities In India

Linguistic minority is a class of people whose mother tongue is different from that of the majority in the State or part of a State. The constitution of India provides special provisions for

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*Arrangements of International Organizations*, 11 Croatian International Relations Review 1, 4 (2005).

<sup>14</sup> *In Re Kerala Education Bill*, AIR 1958 SC 956.

<sup>15</sup> *A.M.Patroni v. Kesavan*, AIR 1965 Ker 75.

<sup>16</sup> *TMA Pai Foundation v. State of Karnataka*, AIR 2003 SC 355.

<sup>17</sup> *Islamic Academy of Education v. State of Karnataka*, AIR 2003 6 SCC 697.

<sup>18</sup> The National Commission for Minorities Act, 1992, S 2, No.19, Acts of Parliament, 1992 (India).

<sup>19</sup> Census of India, [https://censusindia.gov.in/2011census/population\\_enumeration.html](https://censusindia.gov.in/2011census/population_enumeration.html) (last visited Jan.12, 2022).

the protection of the interests of linguistic minorities. Article 350 A and 350B speaks extremely of the linguistic minorities in India.

#### IV. CONCEPT OF SECULARISM

The etymological background of the term secularism traces to 13<sup>th</sup> century. ‘The word secularism derived from the French word ‘secular’ which means living in the world, not belonging to a religious order, and belonging to the state, and also from the Latin word ‘*saecularis*’ which means worldly, secular, pertaining to a generation or age.’<sup>20</sup> A common understanding of the term secularism is based on the idea that the state is not concerned with any particular religion or belief. A secular state is one that does not establish any religion as the official religion of the state. Secularism was the product of renaissance in Europe. Originally the term secularism has related to the secular meaning which denies religious considerations in the state activities.

As per the Editors of Encyclopedia Britannica secularism means “any movement in society directed away from otherworldliness to life on earth”. Secularism can be considered as a movement which gives more preference to human developments than religious beliefs and doctrines. Cambridge Dictionary gives the meaning of secularism as “the belief that religion should not be involved with the ordinary social and political activities of a country”.<sup>21</sup> As per Collins Dictionary “secularism is a system of social organization and education where religion is not allowed to play a part in civil affairs. It is a philosophy or a doctrine that rejects religion, especially in ethics, the attitude that religion should have no place in civil affairs and the state of being secular.”<sup>22</sup> Merriam -Webster Dictionary provides the meaning of the term secularism as “indifference to or rejection or exclusion of religion and religious considerations”.<sup>23</sup>

According to Jim Herrick, secularism means that people do not refer to religion to make decisions, to adopt policies, to run their lives, to order their relationships, or to impel their activities.<sup>24</sup> ‘The secularism refers to people who live their lives free of religious intervention. But It doesn’t mean for evangelizing the concept of atheism. It recognizes people’s rights are best protected and government is fairest when religion and myth are not the basis of public policy. A person can be religious and still believe that secularism is the fairest and most equal

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<sup>20</sup> Online Etymology Dictionary, <https://www.etymonline.com/word/secular> (last visited Jan. 10, 2022).

<sup>21</sup> Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/secularism>, (last visited Jan. 10, 2022).

<sup>22</sup> Collins, <https://www.collinsdictionary.com/dictionary/english/secularism>, (last visited Jan. 10, 2022).

<sup>23</sup> Merriam -Webster, <https://www.merriam-webster.com/dictionary/secularism>, (last visited Jan. 10, 2022).

<sup>24</sup> Jim Herrick, *Will Secularism Survive?*, 26 Free Inquiry (2006).

approach to government since it guarantees religious freedom for all, favoring no one religion over another or over nonbelief.’<sup>25</sup>

Dr. V P Luthra points out three systems which are dominant in the western countries. ‘First, there is a secular system which mean religion is regarded as a private matter and the state is not concerned with it any way. This kind of system is prevalent in the U.S.A. Secondly, there is a situation in which the church is controlled by the State. In this system other religions are tolerated and are allowed to manage their own affairs without the interference of the State. This system prevails in Britain. Thirdly, this system aims at giving freedom to all religions equally, but the state does not divest itself of the responsibility for controlling the affairs of any religion. This jurisdictional system prevails in Netherland and Indonesia.’<sup>26</sup> Secularism can have two types of meaning: (i) in positive sense it denotes equality and respect for all religions as well as protecting them equally and (ii) in negative sense it refers to complete separation in between the religion and the state.

## V. SECULARISM IN INDIA

Secularism is one of the most cardinal parts of the Indian Constitution. Secularism in India does not mean separation of religion from state. Instead, secularism in India means a state that is neutral to all religious groups. In the Western countries, the word secular implies three things: freedom of religion, equal citizenship to each citizen regardless of his or her religion, and the separation of religion and state. In contrast, in India, the word secular does not imply separation of religion and state, but it refers to the equal treatment of all religions. India has a unique concept of secularism which keeps equal distance from all religions and treat them equally. The Constituent Assembly had several debates and discussions on secularism and what character the state of India was to assume. India is a land of many religions and therefore the Country has to ensure freedom of religion to the followers of different religions. The State shall not discriminate against any citizen on grounds only of religion. Jawaharlal Nehru, the giant leader of freedom struggle, believed in democracy as well as secularism as the basic features of the Indian Constitution. Maulana Abdul Kalam Azad zealously led the cause of Hindu-Muslim unity and India’s secular ethos. He declared in a speech that “I am proud of being an Indian. I am part of the indivisible unity that is Indian nationality. I am indispensable to this noble edifice and without me this splendid structure is incomplete. I am an essential element,

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<sup>25</sup> Center for Inquiry, <https://centerforinquiry.org/definitions/what-is-secularism>, (last visited Jan. 10, 2022).

<sup>26</sup> Ranbir Singh and Karamvir Singh, *Secularism in India: Challenges and its Future*, 69 *The Indian Journal of Political Science* 597, 598 (2008).

which has gone to build India. I can never surrender this claim.”<sup>27</sup> In the view of Dr. B. R. Ambedkar secular state does not mean that we shall not take into consideration the religious sentiments of the people. All that a secular State means is that this Parliament shall not be competent to impose any particular religion upon its rest of the people.<sup>28</sup>

According to Dr. Radha Krishnan no religion should be given preferential status or unique distinction and no religion should be accorded with special relations and if does, it would be a violation of the basic principles of democracy and contrary to the best interest of religion and Government.<sup>29</sup> Secularism brought people belong to different religions, castes, races, languages, cultures, customs and traditions under a single umbrella, i.e., India. Secularism in India is not negation or acceptance of any particular religion but giving respect to all religions equally without any favoritism. Justice K Ramaswamy held that secularism is part of the fundamental law and basic structure of the Indian political system to secure to all its people their socio – economic need essential for man’s excellence with material and moral prosperity and political justice.<sup>30</sup> Secularism in India refers to the equal status and treatment of all religions. Impartiality or non-interference by the Government of the country in matters of religion signifies the secular face of India. India accepts all values and principles of all religions and allow every citizen to follow any religious values of their own choice. Secularism in India embraces all including atheists. In the book ‘India as a Secular State’, Donald Eugene Smith defined secularism as freedom of religion for the individual, citizenship within the state, and the separation of state and religion based upon Indian Constitutional mooring. The secular state guarantees individual and corporate freedom of religion and deals individual as a citizen irrespective of his religion.<sup>31</sup>

### **1. Indian Constitutional Perspective Of Secularism**

India is a secular state which simply means that no state religion is recognized in the Indian Constitution. In the year 1976 the term ‘secular’ was introduced in the 42nd Amendment of the Constitution of India. It clearly stated that there is no separation between religion and state and everyone is equal before the law and all the religions are accepted by everyone. There is no

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<sup>27</sup> Maryam Sikander, *In an era of citizenship debates, recalling Maulana Azad and the fight for India’s secular Backbone*, Scroll, (Jan 18, 2020, 06:30 AM), <https://scroll.in/article/948058/in-an-era-of-citizenship-debates-recalling-maulana-azad-and-the-fight-for-indias-secular-backbone>.

<sup>28</sup> Shah Ishfaq, *Secularism in India Judicial and Constitutional Perspective*, Legal Service India E - Journal, <https://www.legalserviceindia.com/legal/article-6954-secularism-in-india-judicial-and-constitutional-perspective.html> (last visited Jan. 15, 2022).

<sup>29</sup> Ranbir Singh and Karamvir Singh, *Secularism in India: Challenges and its Future*, 69 *The Indian Journal of Political Science* 597, 598 (2008).

<sup>30</sup> *Id.* at 599.

<sup>31</sup> Robert L. Bock, *India as a Secular State. Donald Eugene Smith*, 26 *The Journal of Politics* 465 (1964).

priority to be given to any religion and individuals can practice any religion of their own choice. In the Fundamental Rights, Secularism is reflected in the Articles 25 to 28 which states that every citizen has the freedom of conscience and the right to profess, practice and propagate any religion. It has also mentioned about the religious practices, rituals followed as per individual's choice and belief.

The whole principles and values of the Indian Constitution is summarized in the preamble. It is the mirror to the spirit of the Constitution. India is the land of multi religious society. Therefore, religious harmony is a must to promote and uphold the values of fraternity in Indian context. The concept of unity in diversity depicts the nature of India. The Constitution of India provides provisions for the unity and integrity of the nation. The secular nature and values are guaranteed and protected certainly by different provisions in the Constitution of India.

The secularism is proclaimed in the Preamble to the Constitution of India. It reads as follow: "We, the people of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic, Republic", etc.<sup>32</sup> The secular objective of the State has been exclusively stated by inserting the word 'secular' in the Preamble of the Indian Constitution by 42<sup>nd</sup> Amendment Act 1976. The essence of unity and fraternity of the people of India has achieved by enshrining the ideal of a Secular State.<sup>33</sup> Article 14 of the Constitution of India speaks about the equality before law which means all are equal in the eyes of law. Article 15 prohibits discrimination on grounds of religion, race, caste, sex or place of birth. No discrimination will be shown by the state against any person on account of his religion or faith. Article 16 prohibits discrimination in public employment on grounds of religion. The provisions relating to Right of Freedom of Religion of the Articles 25 to 28 of the Constitution of India make India a secular state. Article 25 of the Constitution of Indian grants freedom to every citizen of India to profess, practice and propagate his own religion. The State will not accord any preferential treatment to any of the religions. Article 29 and 30 of the Indian constitution assures protection of minority rights. The religious tolerance is the heart and soul of secularism as envisaged by the Indian Constitution. It secures the conditions of creating a fraternity of the Indian people which assures both the dignity of the individual and the unity of the nation. Article 44 speaks about the uniform civil code for the citizens throughout the territory of India. This will ensure equal status to all and eradicate discrimination in a better way. Article 51 A (e) describes fundamental duty of a citizen to promote harmony and the spirit

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<sup>32</sup> INDIA CONST. Preamble.

<sup>33</sup> Durga Das Basu, Introduction the Constitution of India 27 (18<sup>th</sup> ed. Wadhaw and Company Law Publishers 1999).

of common brotherhood. These constitutional provisions reflect the existence and relevance of secularism in India.

## 2. Secularism In Judicial Point Of View

The secularism is a dynamic concept in India that prevails even before independence. The Constitution of India express the existence secular State in India. Independent Judiciary is the custodian and guardian of the Constitution of India. Judicial interpretations give different meanings to the concept of secularism. Judiciary interprets the concept of secularism as a basic structure of the Indian Constitution in *Kesavananda Bharati v. State of Kerala*.<sup>34</sup>In this case Chief Justice Sikri stated that the secular character of the Constitution was the essence of it. In *Sardar Taheruddin Syedna Sahib v. State of Bombay*<sup>35</sup>, the Supreme Court has observed that Articles 25 and 26 emphasize the secular nature of the Indian democracy. In 1994 the Apex Court declared the validity of secularism as an important feature in the Indian Constitution in *S.R. Bommai v. Union of India* case.<sup>36</sup>It also gave a different meaning to the concept of secularism. The State should keep a neutral stand between different religions. The Court said that secularism means equal treatment of all religions. It has rightly observed that religion and politics should not be mixed and religion should not be used for political purposes.

The Supreme Court of India in *Indra v. Rajnarayan* case<sup>37</sup> explained that the basic feature of the secularism and hold that, the State shall have no religion of its own and all citizens of the country shall be equally entitled to the freedom of their conscience. The Supreme Court has ruled in *Bal Patil and Anr. v. Union of India* that the State has no religion and the State has to treat all religions and religious people equally and with equal respect without in any manner interfering with their Individual rights of religion, faith and worship. The Supreme Court in *Aruna Roy v Union of India*,<sup>38</sup>held that the essence of secularism is non-discrimination of people by the State on the basis of religious differences. In *Abhiram Singh v. C. D Commachen (Dead) By Lrs. & Ors.*<sup>39</sup>held that the election will be cancelled if the votes are sought in the name of the candidate's religion. No individual ought to endure any type of segregation due to his religion yet all similar ought to be allowed to share to the fullest degree in the basic life. The Court held that secularism does not say that the State should stay away from religion instead it should give equal treatment to every religion.

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<sup>34</sup> *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

<sup>35</sup> *Sardar Taheruddin Syedna Sahib v. State of Bombay*, AIR 1962 SC 853.

<sup>36</sup> *S.R. Bommai v. Union of India*, AIR 1994 SC 1981.

<sup>37</sup> *Indra v. Rajnarayan*, AIR 1975 SC 2299.

<sup>38</sup> *Aruna Roy v Union of India*, AIR 2002 SSC 368.

<sup>39</sup> *Abhiram Singh v. C. D Commachen & Ors.*, (2017) 11 SCC 1

Minority judgment by justices A M Ahmadi and S P Bharucha on the question regarding the constitutional validity of the 'Acquisition of Certain Area at Ayodhya Act 1993 has observed that, 'secularism is given the pride of place in the Constitution. The object is to preserve and to protect all religions, to place all religious communities on a par. When, therefore, adherents of the religion of the majority of Indian citizens make a claim upon and assail the place of worship of another religion and, by dint of numbers, create conditions that are conducive to public disorder, it is the constitutional obligation of the State to protect that place of worship and to preserve public order using for the purpose such means and forces of law and order as are required. It is impermissible under the provisions of the Constitution for the state to acquire that place of worship to preserve public order. To condone the acquisition of a place of worship in such circumstances is to efface the principle of secularism from the Constitution.'<sup>40</sup>

## VI. MINORITY RIGHTS AND SECULARISM

India is a home of different religions and different minority communities. The Constitution of India guarantees equality to all citizens irrespective of their religion and beliefs. The concept of secularism enriches the plurality or diversity of Indian society. There exist a few tensions between the minority rights and secular principles expressed in the Constitution of India since its adoption or even before. Minorities were having a sense of insecurity and sense of segregation during and after the independence. 'In the discussions of the Constituent assembly the representatives of different religious minority communities shared concerns regarding the submerging of a distinct cultural identity in independent India. They pointed out that only through the retention of their own distinct cultures, members of these minority communities would be able to contribute effectively to the nation. The strongest opposition to minority rights during the Constituent Assembly debate was regarding their implications for national unity, identity, integrity and nationalist ideal of secularism. Secularism elaborated in terms of the tolerance and the generosity of the majority community towards the minorities carried out connotations of forbearance and self-restraint.'<sup>41</sup> B.R. Ambedkar, the Chairman of the Drafting Committee of the Indian Constitution, had strongly argued to regard minority rights as absolute rights. They should not be subjected to any consideration as to what another party may like to do to minorities within its jurisdiction. And he held that the secularism was a universal value that needn't be specifically mentioned in the Constitution.<sup>42</sup>

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<sup>40</sup> P A Sebastian, *Secularism and the Indian Judiciary*, 45 Economic and Political Weekly 42, 43 (2010).

<sup>41</sup> Rochana Bajpai, *Minority Rights in the Indian Constituent Assembly Debates, 1946 - 1949*, Research Gate, [https://www.researchgate.net/publication/24119555\\_Minority\\_Rights\\_in\\_the\\_Indian\\_Constituent\\_Assembly\\_Debates\\_1946-1950](https://www.researchgate.net/publication/24119555_Minority_Rights_in_the_Indian_Constituent_Assembly_Debates_1946-1950), (last visited Jan. 12, 2022)

<sup>42</sup> Vikas Pathak, *Minority Rights Absolute Ambedkar Said*, *The Hindu*, (Nov. 30, 2015, 03:06 PM),

Minorities were given special care to uplift themselves to the mainstream of the society through the provisions of the Constitution of India. They were given minority rights to preserve their identity and minority status. The peaceful enjoyment of the minority rights can give way for eradicating backwardness of the minorities. But minorities face constant struggle from the part of the government and the majority community. There should be sufficient balance between rights and personal beliefs. The state should recognize the minorities and provide adequate efforts to bring them to the mainstream of the society.

Reservation policy also debated as a threat to the concept of secular state. The reservation policies are intended to provide social and economic equality. Various schemes are initiated by the Central and State governments to provide socio – economic aid and infrastructure to the minorities. The reservation policies of the governments never create a sperate class in the society or violate the secular nature of the country. In *Pramati Educational & Cultural Trust v. Union of India*<sup>43</sup> the Supreme Court opined that preferential treatment of minorities enhances the secular credentials of the nation and does not harm it. Social justice is ensured by the positive discrimination for socially and educationally backward classes.

Minority rights are provided by the Constitution of India to conserve their culture, language and script. Their distinctive character shall be preserved through establishing educational institutions of their choice. The rights provided under the heading Cultural and Educational Rights in the Indian Constitution do not intent to create any special community or to grant any special package to any minority communities. The intention of the minority rights is to provide a suitable situation to uplift the minorities to progress and development.

## VII. CONCLUSION AND SUGGESTIONS

Secularism is the basic structure of the Constitution is derived from the code of tolerance and equal treatment of all religions. The Constitution of India safeguards the secular nature of the State without any violation or fragmentation. The secular nature of India paved way for an effective democracy. Minority rights guaranteed under article 29 and 30 of the Indian Constitution is completely in consonance with the secular nature of the nation. Minority rights are essential for the welfare and development of the weaker sections of the society to assimilate themselves to the status of the majority. Judiciary guards the spirit of the Constitution by promoting minority rights without hurting the secular principle of the Constitution.

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<https://www.thehindu.com/news/national/constituent-assembly-debates-minority-rights-absolute-ambekar-said/article7930932.ece>.

<sup>43</sup> *Pramati Educational & Cultural Trust v. Union of India*, AIR 2014 SC 2114.

The central government has to give the definition of minority in the Constitutional provisions related to minority rights. It is the utmost duty of the secular state to support and take care of the minorities and facilitate themselves for development.

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