

# State in Religion: Preamble to Pogrom

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India is a secular state in which all faiths enjoy freedom of worship. The concept of secularism is implicit in the Preamble to our Constitution, which declares the resolve of the people to secure to all its citizens “liberty of thought, belief, faith, and worship.” There is no mysticism in the secular character of the state. Secularism is neither anti-god nor pro-god, it treats alike the devout, the agnostic, and the atheist. It eliminates god from the matters of the state and ensures that no one shall be discriminated against on the ground of religion. The state can have no religion of its own. It should treat all religions equally. In a secular state, the state is only concerned with the relation between man and man. It is not concerned with the relationship of man with god. It is left to the individual’s conscience. Man is not answerable to the state for any of his religious views. There can be no compulsions in law for any creed or practice of any form of worship.<sup>1</sup> Since time immemorial, institutionalised religion has been “oppressive” and a tool in the hands of a few power-wielding people and it is no different in the contemporary scenario.

Religion is a system of belief, a way of life, a framework within whose parameters individuals operate, within which lie our sense of duty and morality. On the other hand politics is the science of governance. These are two indispensable strands of the society and should be practiced separately. Had that been the case, the society would not have been far from what Plato termed as “utopia.”<sup>2</sup> Our Constitution by nature is secular, and hence has certain articles to protect it. Some of these articles are:

## 1. Article 25:

Under this Article a person has a two-fold freedom:

- a) freedom of conscience
- b) freedom to profess, preach and practice religion.

## 2. Article 26:

Article 26 says that, subject to public order, morality and health every religious denomination or any section of it shall have the following rights:

- a) to establish and maintain institutions for religious and charitable purposes
- b) to manage its own affairs in matters of religion
- c) to own and acquire movable and immovable property
- d) to administer such property in accordance with law

## 3. Article 27:

Article 27 provides that no person shall be compelled to pay any tax for the promotion or maintenance of any particular religion or religious denominations. The public money collected by way of tax cannot be spent by the state for the promotion of any particular religion.

<sup>1</sup> Pandey, J N (2000) *Constitutional Law of India*, 36<sup>th</sup> edition, Central Law Agency.

<sup>2</sup> Biala Aparajita, *Religion and Politics*, accessed at [http://www.sarkaritel.com/news\\_and\\_features/mar2002/religion.htm](http://www.sarkaritel.com/news_and_features/mar2002/religion.htm)

#### 4. Article 28:

According to the Article 28 no religious instruction shall be imparted in any educational institution wholly maintained out of state funds. Article 28 mentions four types of educational institutions in this regard:

- a) institutions wholly maintained by the state: no religious instruction shall be imparted;
- b) institutions recognised by the state: religious instruction may be imparted only with the consent of the individuals;
- c) institutions that are receiving aid out of the state fund: religious instruction may be imparted only with the consent of the individuals;
- d) institutions that are administered by the state but are established under any trust or endowment: there is no restriction on religious instructions.<sup>3</sup>

But the government does not even adhere to these articles and has always violated them. This is reflected in its acts as well as its legislation as is explicitly visible in the following laws.

1. The Religious Institutions (Prevention of Misuse) Act: makes it an offence to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes.
2. The state of Uttar Pradesh passed the Religious Buildings and Places Bill during the state assembly session of March-May 2000. The bill requires a state government-endorsed permit before construction of any religious building can begin in the state. The bill's supporters say that its aim is to curb the use of Muslim institutions by Islamic fundamentalist terrorist groups, but the measure has become a controversial political issue among all religious groups in northern India. The current legal system accommodates minority religions' personal law status; there are different personal laws for different religious communities. Religion-specific laws pertain to matters of marriage, divorce, adoption, and inheritance.
3. The Orissa Freedom of Religion Act of 1967 contains a provision requiring a monthly government report on the number of conversions, but this provision previously had not been enforced. (After a conversion has been reported to the District Magistrate, the report is forwarded to the authorities and a local police officer conducts an inquiry. The police officer can recommend in favour of or against such intended conversion, often as the sole arbitrator on the individual's right to freedom of religion; if conversion is judged to have taken place without permission or with coercion, the authorities may take penal action).<sup>4</sup>

As if laws were not enough, the state has initiated subsidies for certain religious purposes. Also, some religious gurus are being paid from government funds. Some of these outrageously unnecessary and expensive activities which deeply concern us have been listed below:

### Areas of Concern

#### **Haj Subsidy**

The Haj subsidy violates the very dictionary meaning of "secular." A truly secular state is not concerned with religion and should not, therefore, specially encourage or promote any religion; a secular state should consider religion as a purely personal matter that ought not to be allowed to interfere in matters of state. Though, the "secular" Constitution of India does not define "secular" (a conspicuous omission that has been deliberate and devious in intent all along), the validity of the Haj subsidy could well be challenged in the courts as being unconstitutional. Among the grounds of challenge could be that it aids people of a specific religion and thereby interferes in the matters of the state's allocation of its financial resources. The history of the Haj subsidy can be traced back to the

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<sup>3</sup> Pandey, J N (2000) *Constitutional Law of India*, 36<sup>th</sup> edition, Central Law Agency.

<sup>4</sup> September 5, 2000, *2000 Annual Report on International Religious Freedom: India*. Bureau of Democracy, Human Rights, and Labour, US Department of State.

British period. The Britishers passed an act called the Port Haj Committee Act in 1932 as part of their divide and rule policy. Post independence, Jawaharlal Nehru, patron saint of India's pseudo-secularism, and our politicians thereafter, went a step further. They divide and divide but never rule. Instead of scrapping the Port Haj Committee Act, 1932, they got our Parliament to enact the Haj Committee Act, 1959. The piece of legislation is totally non-secular insofar as it:

- Ordains that a complement of 16 government officers/ MPs/ MLAs/ municipal officers/ central government nominees be a part of a 19-member committee to undertake literally all duties connected with the organisation of a Haj pilgrimage when, ideally, a private Muslim outfit should do all that work.
- Creates a Haj fund to which can be "credited" any sums allotted by the central government or any state government.

Thus, Nehru the "secularist," got the state to be directly associated with a religious pilgrimage. The Haj Committee Act, 1959, even defied every conceivable English dictionary by defining the word "pilgrim" to mean "a Muslim proceeding on or returning from pilgrimage to Saudi Arabia, Syria, Iraq, Iran or Jordan." However, Nehru's law drafting bureaucrats were resourceful enough to find the Arabic phrase *Amirul-Haj* to denote a "pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship."<sup>5</sup> The amount spent on this subsidy is exorbitant.

Year	Number of pilgrims	Rs per pilgrim	Total subsidy (Rs Crore)
1994	25,685	9,700	25
1995	30,503	10,200	33
1996	50,346	8,340	42
1997	53,826	20,400	111
1998	63,000	18,777	123
1999	66,000	19,640	129
Total	289,360	87,057	463

Source: *Biala Aparajita, Religion and Politics*, accessed at [http://www.sarkaritel.com/news\\_and\\_features/mar2002/religion.htm](http://www.sarkaritel.com/news_and_features/mar2002/religion.htm)

Thus, from 1994 to 1999 alone, the Haj subsidies for Indian Muslims, have cost the Indian taxpayer a whopping 463 crore rupees! The increase in the subsidised amount is a mind blowing 500%. The state of Orissa received less as rehabilitation money for the disastrous cyclone that killed over 30 thousand people! The Haj subsidy has grown from Rs 250 million in 1994 to Rs 1,370 million (as per revised Budget 2000-2001) and to Rs 1,545 million provided in the Budget 2001-2002. Apart from the airfare and lodging subsidies, every year more government funds are spent on the creation of district-level orientation camps, for the purpose of "familiarising" muslims from the rural areas with the travel and accommodation arrangements during the Haj. Since 1999 "extra" funds are also being diverted to publish "Haj literature" in various Indian languages, besides the English, Urdu and Hindi in which it is already available. And guess who is picking up the tab for the publication of these booklets?

The irony of the whole issue is that the government of Saudi Arabia, home of Mecca, believes that any subsidy for the Haj pilgrimage goes against the spirit of the Shariat. In fact, Islamic religious authorities have been quoted to the effect that, strictly speaking, Haj is a religious duty only for those who can afford it and that the pilgrimage may not be "accepted by God" if the expenditure incurred is not of the pilgrim.

Adding insult to injury is the saga of the overwhelming evidence of rampant corruption on part of the Central Haj Committee (CHC), the body that was instituted to oversee the subsidy distribution and

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<sup>5</sup> Lavakare, Arvind

organisation of the Haj arrangements. After the Congress had been thrown out of power, it was discovered that not only were our taxes responsible for such jaw dropping Haj subsidy amounts, they were also lining the pockets of the utterly corrupt and immoral Haj Committee members with gold! This is clear from the following examples: incidents of CHC members making regular trips to Saudi Arabia and not submitting accounts for the same. The CHC members were taking a daily allowance of about Rs 12,000 with additional Riyal allowances worth Rs 6,600 without any submitted accounts! For 19 members, this is by no means a small amount! Also members of CHC took as many as 15 family members each for *Umrah* free of charge by illegally utilising Air-India charter tickets.

This not the end of the story. Beside these demands, it is not quite clear why the Central Haj Committee has cited the airfare between Jeddah and various destinations within India to be an exorbitant Rs 30,000. This is a grossly inflated amount by any reasonable standard, given the fact that different airlines and tour operators provide the air travel on this route for Rs 22,000. It is especially suspicious considering that the flights are chartered on a group basis, which usually translates into substantially discounted fares. One has to wonder whether there is an underlying tendency to over quote the airfare so that additional increases in the subsidy amounts can be justified, year after year!

The real icing on the cake however, is the incredible demand for construction of a totally separate Arrival/ Departure lounge meant only for muslim Haj pilgrims at Srinagar airport. Apart from being outrageously expensive, this demand exposes the mindset of such muslim leaders who now want segregation during their Haj journeys! Since the Haj Committee Act 1959 is more than forty years old, and important changes in matters relating to Haj have made the Act obsolete, it no longer serves current needs. So the state felt a need to alter it. It is hard to understand why it has not made such required changes to many other acts. Some additional and important developments in this Act are:

- (i) The number of Indian pilgrims who perform Haj through the Committee has increased from about 24,000 in the year 1992 to 72,000 in the year 2000. This has presented new management challenges to the Haj Committee.
- (ii) The composition of the Haj Committee, as provided in the Act is unrepresentative in effect. It gives primary importance to Maharashtra and specifically to Mumbai in the areas of Haj management; this is no longer tenable. Further Haj sailings were reduced to three in 1984, and were finally ended in 1995. Now, the movement of all Haj pilgrims is by air from the different places in India.
- (iii) Over the last forty years, intermittently questions had been raised in different quarters regarding the respective powers and responsibilities of the central and state governments and of the Haj Committee. Again, over the last few years, complaints have been received by the central government regarding the mismanagement of its finances by the Haj Committee. These developments have emphasised the importance of ensuring that the new Haj legislation should clearly define the authority of the central and state governments in the area of Haj policy and management, as also provide for a reformed and representative Haj Committee, with an effective mechanism to ensure financial propriety, and above all, eliminate ambiguities relating to jurisdictional matters.

The Bill seeks to repeal and re-enact the Haj Committee Act, 1959 so as to achieve the above objectives. This is as far as the centre is concerned. The states are not far behind in terms of failure of performance. N Chandrababu Naidu, chief minister of Andhra Pradesh, has often loudly proclaimed himself to be an upholder of secular ideals. But it is reported that his government recently released Rs 50 million for the Haj House under construction in Hyderabad, and another Rs 50 million towards the repair of *shadi khana*s and mosques in his state. Presenting before you, a modern, dynamic, and

principled “secularist!”

Another outrageously vulgar example of our pseudosecularism is:

#### **Kailash Mansarovar Yatra Subsidy**

The Kailash Mansarovar Yatra, along the traditional route across Lipulekh Pass in Pithoragarh district of Uttar Pradesh, is co-ordinated by the Ministry of External Affairs (MEA) and conducted with the assistance of various central and state government agencies. Kumaon Mandal Vikas Nigam (KMVN) makes the required logistic arrangements for the *Yatra* on the Indian side, including boarding and lodging. During 1999-2000, MEA provided Rs 3,250 per *yatri* to KMVN for this purpose. The government provided for medical examination prior to the *Yatra* and medical assistance, security and escort cover, insurance cover and communication links between the Indian and Chinese sides for the duration of the *Yatra*. The government also deputed a Liaison Officer and a doctor with each batch of *yatris*. The Delhi government provided for stay of *yatris* at *Ashok Yatri Niwas* in New Delhi for four-five days during their onward and return journey. It is the endeavor of government to improve and upgrade facilities for the *yatris* on a continual basis. The total expenditure incurred by MEA on account of logistic arrangements, communication links and publicity for the *Yatra* is indicated below:

1997: Rs 25,78,000
1998: Rs 14,61,000
1999: Rs 42,09,688

The subsidy provided can be split as thus:

- The Ministry of External Affairs routes through the *Kumaon Mandal Vikas Nigam* a subsidy of Rs 3,250 to each KM *yatri*.
- The UP government gives Rs 5,000 to every KM *yatri* irrespective of the state to which (s)he belongs.
- The Delhi government gives Rs 5,000 to every KM *yatri* who is a domicile of Delhi.
- The Gujarat government gives a kit worth Rs 2,500 to every KM *yatri* belonging to that state.

Thus, if you are were a citizen of Delhi, you would get Rs 13,250 as total government subsidy for your pilgrimage to Kailash Manasarovar that costs approximately Rs 1,00,000 in all. This is also not the end of the glorious tale of our secularism. Gujarat, the victim of the recent communal riots is perhaps the most secular state in our nation. It does not promote any religion but all it does is the following: the BJP-ruled Gujarat government will pay monthly salaries to priests of Hindu temples in the state. In the first phase, each priest of the 354 government-controlled *devasthan*s or temples would be entitled to a monthly salary of about Rs 1,200 from September. When queried why Hindu priests were singled out for this provision, Minister of State for Home Affairs, Haren Pandya, who held charge of pilgrimage development and cow protection told the *Hindustan Times* that priests of other religions in any case get paid either from the *Waqf* Board or trusts managing the place of worship. “It is to give justice to the feelings of the Hindu society that salaries are being paid to them,” the minister said. The minister however, clarified that before paying the salaries some aspects like the priest’s antecedents, the managing committee’s activities, the *aarti* and *darshan* timings followed, the temple’s income-expense position would be ascertained.<sup>6</sup> As you have seen above, our states, our central government and all our politicians are secularism personified. Where can one find a better example of equality among various religions? Which other nation can boast of keeping itself out of the religious affairs of its people?

<sup>6</sup> *The Hindustan Times*, August 11, 2001, Das Rathin, Gandhinagar.

## Incidents

The most outstanding example is the December 1995 Supreme Court judgement, which defined *hindutva*. The Bombay High Court held Shiv Sena's Manohar Joshi guilty of corrupt electoral practices like appealing to religious sentiments in order to get votes, and set aside his election to the state assembly in the 1990 polls. Quashing the high court judgement, the Supreme Court gave a benign interpretation to *hindutva*, defining it merely as a way of life, adding that it did not convey an attitude hostile to persons practicing any other religion. The apex court's ruling virtually gave its seal of approval to the use of the slogan of *hindutva* in electoral campaigns by the *Sangh parivar*, notwithstanding the nefarious use to which it was put by members of the *parivar* just a few years ago during the infamous *rathiyatra* which culminated in the demolition of the Babri mosque and widespread communal riots.

Although it might sound anachronistic in an India which is supposedly racing towards modernisation, and duty-bound by a constitution which claims to develop scientific temper, a two-member bench of the Supreme Court has recently come out with a judgement which will allow images of Hindu deities to enjoy legal status to own land and properties. The judgement has been delivered by the bench comprising Justice M Jagannadha Rao and Justice Umesh C Banerjee, in response to appeals filed by two deities: Ram Jankiji and Thakur Raja, whose idols are consecrated in two separate temples in Bihar through their manager (*shebait*) who controls their abode. The manager appealed to the apex court because the Bihar High Court ruled that one of the deities was fake. Quashing the high court's ruling, the honorable judges of the Supreme Court said "By no stretch of imagination can the deity be termed fake." They then proceeded to explain how the Hindu law recognised a Hindu idol as a legal subject which could "hold property by reason of the Hindu *shastras* following the status of a legal person in the same way as that of a natural person." Elaborating further on the matter, the judges described the rituals by which Hindu idols were infused with life (*pran pratishtha*) and divinity was attributed to them. One can easily speculate on the far-reaching consequences of the judgement. As it is, in our country, all sorts of religious charlatans are allowed to encroach on government land and build unauthorised temples. Once these structures come up, the authorities refuse to demolish them on the usual plea that it would "hurt religious sentiments". Now, as a result of the judgement, these people would get the legal sanction to buy and own property.

Another of these examples is the illegal use of *Wakf* Board land by the Delhi government. The government has ordered the Vigilance Department to probe into the unauthorised encroachment over *Wakf* land. The Board, however has, sought a CBI enquiry into the malpractice. The Delhi *Wakf* Board has nearly 10,000 properties which are valued at Rs 2,000 crores. Board sources describe the government agencies to be the largest occupants of the *Wakf* properties. The recently constructed CGO Complex, Pragati Maidan and the Delhi Golf Course are said to be constructed on *Wakf* land. The Board Chairman Suraj Piracha told the *Islamic Voice* that no rents have been recovered from these institutions.

Details	Rural Electrification	Rural Water Supply	Haj Subsidy
Amount spent	Rs 164 crore	Rs 1,637 crore	Rs 150 crore
Number of people	80 lac	105 lac	75 thousand
Amount per person	Rs 205	Rs 1,559	Rs 20,000

Source: *Economic Survey, 2001-2002. Government of India Ministry of Finance, Economic Division.*

We have seen how the state intervenes in religion and consequently spends crores of rupees for no rhyme or reason. To make it clearer we compare the expenditure on religion with that of certain essential services that the government provides. In the Budget 2002-2003, an outlay of Rs 164 crore has been provided for the Rural Electrification Program. Under this Programme 80 thousand villages that have no access to electricity are proposed to be electrified. Now assuming that on an average there are 100 people in each village, (which needless to say is an underestimation) the total number of people are  $100 * 80,000 = 80$  lacs. Expenditure on electricity per person =  $1,64,00,00,000 / 80,00,000 = \text{Rs } 205$ .

Compare this with the subsidy given to the Haj Pilgrims. It amounts to Rs 20,000 per person. This is not the only example. Several others can be cited. The expenditure on rural water supply is just Rs 1,637 crore. Our welfare state finds it fit to spend only such a meager amount for the economic development and convenience of 105 lac people. At the same time it finds it absolutely necessary to spend the outrageous 150 crore on 75 thousand Haj pilgrims. What should be more important to the government—welfare of millions of its citizens or its vote banks?<sup>7</sup> From this comparison of spending more money on religion, we are not trying to say that state should increase spending in rural electricity and water. What we are trying to say is that our so-called welfare state has warped ideas about welfare. Whatever it does in the name of welfare is just a continuous process of appeasement. All it wants is to build up its own vote banks.

Otherwise think of it—what is more important? Electricity for 80 lac people or pilgrimage for 75 thousand! Water—the elixir of life for 105 lac people or a pilgrimage for 75 thousand! We all know the answer. The state does nothing in the interest of the people. All it is looking for is power. By intervening in religious matters it touches the most sensitive issue of its citizens. Our fellow countrymen will do anything in the name of god and religion. So the state thinks it fit to feed itself on the deepest emotions of its citizens.

### Views from the Civil Society

A similar view as ours is held by the renowned journalist and the Minister of Disinvestment, Arun Shourie. In his book *A Secular Agenda* (pp 61-78), he observes some specialties in our secular character.

Article 26 gives every denomination the right to, among other things, set up charitable and religious institutions, and to own and administer property. Every secularist will endorse two principles. First, an institution set up by a religious group or property owned by it should be subject to the same laws etc., to which an institution or property owned by any secular organisation is subject. Second, no institution or property owned etc., by a group belonging to one religion should have any preference over an institution or property belonging to a group from another religion.

Consider in the light of these norms a typical promise made explicitly in the Manifesto of the National Front and in a convoluted way by the Congress in the elections in 1991. 'Waqf properties shall be brought under Public Premises (Eviction) Act,' the National Front promised, 'properties belonging to *Waqf* and other religious endowments shall be exempted from the Rent Control Act as a means to augment their income to fulfil their commitments.' This violates both the norms. The basic problem lies not in any particular law but in the pusillanimity of the state, in its own unwillingness to enforce laws that already exist.

Even with regard to charitable and religious institutions set up by religious denominations under Article 26, as well as educational institutions set up by minorities under Article 30, although the

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<sup>7</sup> *Economic Survey*, 2001-2002, Government of India, Ministry of Finance, Economic Division.

article says that they have a right to manage their own affairs, it is not so. We thus have a right to ask the state on what basis the affairs of almost all of the major Hindu temples have been placed under the supervision of IAS officers and the bureaucratic machinery of the state. While the state takes charge of Hindu institutions on the claim that they are being mismanaged, the same concern somehow does not apply to Muslim institutions, which are atleast as badly managed.

### Conclusion

In our capacity as the young and concerned citizens of our great nation, we wish to assert our right to question the rationale behind state intervention in religion. We believe, with ample reasons, that the state owes us an explanation as to why it sacrifices the welfare and development of millions, and instead spends a lot on absolutely unnecessary areas?

Some people might counter this argument by saying that the state needs to look after its citizen's psychological needs. But this need has been misinterpreted. On the contrary an individual must enjoy the freedom and be allowed to exercise his right to profess, preach and practice the religion of his choice. And the only way to protect this right is by complete absence of state intervention. Yet again, it also reflects the state's lack of prioritisation. For it, the psychological needs are apparently more important than the basic civic and physical needs. Also, for our welfare state, the term "Mass Welfare" does not exist. Being Indians we guess we all acknowledge that religion is not merely one aspect of life, it is a lifestyle in itself. For most of us, its impact is undeniable. Unfortunately, its tremendous power to influence everyone irrespective of their economic genre has been shrewdly manipulated by various political parties (governing the state) to inflate their vote bank. All in the name of catering to "the needs of various aspects of the citizen's life." So much for the secular nature of our legal and political machinery.

As Aoneha, one of our fellow interns best sums it up:

*Dejected my Lord passes by  
Tears roll down in shame  
For his own children he treasured most  
Are deceived in his name.  
Tormented he came from heaven above  
To thank all those whom he thought  
Brought his children closer to him.  
Alas he said what a false front  
The motive was not so true  
The reasons abundant  
The task a sham  
--tears--a drop or two.*