

Words of matter

March 10, 2018 - Updated 12:59 pm IST

The meaning and location of ‘secular’ in the Constitution has been a product of a long and contentious political history

BY SANDIPTO DASGUPTA

 0 COMMENTS SHARE

Words matter. In a constitution, which lays out the architecture of state power, words matter even more. It's not surprising then that the now familiar debate around the word 'secular' in the Preamble of the Indian Constitution would provoke heated reactions. The question, however, is why and how it matters.

The primary argument against the word 'secular' in the Preamble is that it was included through the infamous 42nd Amendment to the Constitution during the Emergency, enacted with less than democratic intentions. However, this oft-repeated fact reveals only half the story.

After Emergency, the Morarji Desai government passed, with wide consultation, the 44th Amendment in order to set right the problematic alterations to the Constitution made by Indira Gandhi. However, they never seriously considered removing the word secular from the Preamble.

Nevertheless, critics maintain, the term is superfluous. From a legal point of view, removing any of the Articles 14, 15, or 25 to 28 of the Constitution will do far more harm to the rights of the minorities in the country than removing 'secular' from the Preamble. Moreover, it's not only the Preamble that determines the essential features of the Constitution. The design of the whole Constitution — where elements of a secular polity are amply present — is more significant in that regard. This also disproves the argument that the original drafters of the Constitution signalled their disapproval of secularism by leaving it out of the Preamble.

Moreover, the Supreme Court following the 'basic structure' doctrine of the *Kesavananda Bharati v. State of Kerala* case has taken it upon itself to determine the essential and inviolable elements of India's constitutional structures. And certain aspects of secularism have featured

time and again in what the judiciary has construed to be such a ‘basic structure’ of the Constitution, going as far back as the Keshavananda case itself which was decided years before the 42nd amendment.

Wider meaning

Moreover, the term ‘secular’ is not merely a legal one. This is especially true in the case of India. Like most terms in our political vocabulary, it is a Western import. In its modern sense, it denotes a separation between the public life of the State and the private life of religion, as represented by the American doctrine of ‘separation of church and state’ or (in a different way) the French doctrine of *Laïcité*.

But words and ideas don’t travel across continents and times in a pristine condition. In 20th-century India, the concept of secularism was shaped through the particular battles of our history and the specific geography of our society. At an institutional level, what emerged is an often-imperfect ideal of the state maintaining a distance from, and non-partisanship towards religious groups.

However, the most significant use of secularism in India has been as a negative concept, to denote one’s opposition to certain political visions. It has meant opposing the idea — prevalent since Independence and at its strongest at the

moment — of India as a Hindu Rashtra (a Hindu majoritarian state).

Significantly, it has also been used by those fighting for the empowerment of the backward castes against the domination of upper caste Hindus. In our exclusive focus on Nehruvian secularism, we tend to forget how important a concept it was for someone like Ambedkar or Periyar. In both these iterations, secularism has been a concept — notwithstanding its theoretical or legal uncertainties — championed by those who have sought to argue for a social and political order that heeds a diverse array of interests, and argues against a homogenising and unitary idea of what it means to be Indian.

Diversity in India is not simply a liberal, multicultural wish. Rather, it has been politicised through sophisticated logics of representation and electoral democracy. For this reason it is extremely unlikely that the present government will have either the votes or the political capital to expunge the word ‘secular’ from the Preamble in the near future.

Nevertheless this does not lower the stake of the debate. Constitutions are not just legal documents. They shape the language of our public sphere, and provide the framework for our everyday political claims. Secularism in India has never been a mere legal concept. Its presence or absence from the Preamble should be measured by future outcomes of judicial disputes. Its meaning and location have been a products of a long political history. Its utility has been defined through many contentious battles.

Words matter. They matter in a lawyer’s argument to the courts. But they matter much more as constitutive blocks of a political vision. In today’s India, with the political claims for a Hindu majoritarian polity becoming more aggressive, the argument for keeping the word ‘secular’ in the Preamble is primarily a political one. As it should be.

Sandipto Dasgupta is a fellow at King's College, London and is writing a book on the history of the Indian Constitution