

Dharma Education IN NORTH AMERICA AND **ARTICLE 25B INDIAN CONSTITUTION;**

Uberoi Foundation, VHP north America , DANAM/dharma academy of north America , Dharma Civilization Foundation North America has been already working in north America for this new creative idea among north American scholars.

RSS criticizes minority status to Jains, Sikhs and Buddhists:

Times of India Aug 3rd 2014 news

<http://timesofindia.indiatimes.com/city/bhopal/RSS-criticizes-minority-status-to-Jains-Sikhs-and-Buddhists/articleshow/39528702.cms>

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BHOPAL: Rashtriya Swayamsevak Sangh (RSS) has strongly criticized categorization of Jains, Sikhs and Buddhists as minority communities and termed it a conspiracy to divide Hindu society. On the third day of its think-tank meeting at Thengadi Bhavan here, RSS debated philosophy of Hindutva during which orators pointed out that Jains, Sikhs and Buddhists cannot be considered minority communities because they are part of the Hindu society.

About 25 organisational 'pracharaks' made presentations on Saturday after which RSS chief Mohan Bhagwat and Vishwa Hindu Parishad (VHP) international working president Praveen Togadia addressed the gathering of 190 saffron thinkers.

Addressing the gathering Bhagwat said RSS does not consider Jains, Sikhs and Buddhists as different from Hindus. He argued Hinduism is not a religion but a way of life and concept of Hindu 'rashtra' (nation) and nationality comes from our ancient culture and tradition. He, however, pointed out that Hinduism has always bonded with other cultures and accepted different traditions. Hinduism teaches to bond with people.

While Bhagwat's address was stately and exalted, Togadia gave a fiery speech. His discourse stretched from Indo-Pakistan relations, terrorism, Ram Mandir construction in Ayodhya to the promises made in BJP manifesto. Once a close friend and now bete noire of Prime Minister Narendra Modi, Togadia reminded BJP manifesto promised construction of a Ram temple, revoking article 370 from Kashmir and uniform civil code. He said he trusted the new government and the party will fulfill these promises.

Later, RSS national campaign chief Manmohan Vaidya called a press conference on Saturday

afternoon stating that activists from not just RSS but allied saffron organizations like the Akhil Bharatiya Vidyarthi Parishad (ABVP), VHP, BJP were also participating in the six-day meet. He said the next meet of the RSS intellectuals is scheduled for Lucknow before Diwali.

Dharma Education IN NORTH AMERICA an academic tool and new creative idea for Scholars and North American public for absorption of Sikhs, Jains and Buddhists into Hindu fold. This debate is going on in India Since 1949 and still going on.”

“Even in Hinduism debate is still going among scholars and community on the definition of Religion and Dharma. We find many Indians speaking about Santana Dharma with incomprehension, much like the Europeans”

World has recognized Sikhism as 5th largest Independent Religion .But Article 25 b legally assimilates Sikhism into Hinduism.

Sikhism: A Religion of Numina (Naam) and not Phenomena

Guru Gobind Singh himself directed the Sikhs to follow **guru granth** and no other book nor any human being. Numinous experience is inherent in Frie’s Ahndung (longing), Schleiermarcher’s Feeling, Kant’s Things in Themselves (numina) and Kapur Singh’s Antithesis of phenomena. It stands for the holy minus its moral factor and without any rational aspect. It is irreducible to any other factor. Numinous consciousness involves shaking fear of repulsion and an element of powerful fascination. It can only be understood by “ideograms” i.e. not through logic, but only symbolically. The core of religious experience is inherent in the awareness of non-moral holiness as a category of value. The numinous experience is the core and base of Sikh religion and its ingredients i.e. religiously sensitive mind in relation to his/her apprehension of himself/herself and universe around him/her. The ultimate reality is not comprehensible through the sensory motor perceptions and speculations. Sikhism is a religion of Naam (neumina), which is asserted through 30,000 hymns of Sikh scripture through revealed statements, literary similes and allusions. Naam is God, and God is Naam, and the practice of religion revolves around the Naam. Sikh religious thought cannot be interpreted through any phenomenal process. Guru Ganth is a unique scripture and Sikhism has its own identity as follows:

1. Guru Granth Sahib, the Sikh Scripture is purely monotheistic. It accepts only one God and rejects all other deities, spirits, angels, etc. Only God is immortal. All other deities are mortal and prone to death.

2. The religion of Guru Granth Sahib, being free from inhibitions of any kind regarding the way of life and its adaptability in all the religions of the world vouches its universality. It is not a religion of the chosen people (like Judaism), but instead, it is the religion of the entire humanity. It raises above all the regional barriers.
3. It rejects all ritualism, formalism, and symbolism. It has no belief in any sacrament.
4. It focuses all its attention on the enfoldment of discipline for the attainment of the unity of the soul with God. The emphasis has been laid on the adoption of godly qualities by the seeker.
5. It repudiates the prevalent theories of Creation and scans the universe as the work of the Creator, whose existence pulsates everywhere in His Creation. The extent and expanse of the Creation of the Infinite Lord cannot be delimited.
6. It lays great emphasis on honest and sincere labor. Its religion is the religion of workers and householders. Therefore it decries the renunciation and all types of ascetic practices.
7. It advocates the equality of all human beings, irrespective of birth and sex. The woman is in no way inferior to man. It rejects all distinctions of caste and color.
8. The State has to play its part in the provision of food, shelter, and clothing to the members of the society. There can be no devotion, if the individual is not carefree about his requirements.
9. It presents a balanced combination of action, devotion, and knowledge. Whereas the body has to work for the well-being of family and society while the mind has to remain in tune with the Lord. Service is, thus, the motto of an adherent of Guru Granth Sahib. His best service toward the Guru and the Lord is the remembrance to the Name.
10. The religion of Guru Granth Sahib is most practical. The devotee overbrims with love and devotion. The whole world appears as a family to him. The earth is an abode of Dharma for him.
11. Breaks dichotomy between spiritual and empirical lives.
12. Rejects Ascetism.
13. Rejects Varnasharma Dharma which incorporates basic caste system.
14. Rejects Ahimsa.
15. God Never incarnates. He is Un-Incarnated and Transcendent.

World-View and Guru Granth

Both the surveys of Maxwebster and Schwitzer bring out that all Indian religions are life-negating and suggest withdrawal from life. This is quite true of Buddhism, Jainism, Vaishnavism, Vedanta and even the Sant Tradition. All these Hindu systems as indicated above, involve withdrawal from life, and denial of social responsibility. Evidently, systems that recommend Ahimsa, asceticism, monasticism, Sanyasa, celibacy or withdrawal from life, reject every kind of social involvement, much less social responsibility, as an unwanted bondage. S. K. Mitra, who has surveyed the ethics of all Hindu systems, says “that the common feature of all doctrines of the ideal life, or Moksha, is the conception of ideal as strictly moral idea.” It is so, because all these systems accept a clear dichotomy between the spiritual path and the empirical path, and, thus life-negation is a natural and logical consequence of all these religious systems and their world-view. But Sikhism, as the hymns and lives of the Gurus express and demonstrate very clearly, has a world-view of life-

affirmation, since in the Sikh ideology there is an inalienable combination between the spiritual life and the empirical life of man. For, whatever is within the domain of God, is also within the sphere of operation of the Godman. In short, Sikhism is a whole-life religion with a world-view entirely opposed to that of other Indian religions.

Guru Granth as a New Scripture with New Ideology with New Religious Experience

Vedas and Upanishads are without doubt the scriptures of all Hindu systems. But Sikhism completely denies their authority, and Guru Nanak even calls some of their injunctions to be wrong. The Sikh Gurus were so clear and particular about the independent and separate identity of their religious system and the complete originality and newness of its character, that they took very significant stage which no other religious leader in the world had done. They specifically compiled and authenticated the Sikh Scripture. Secondly, since the time of its compilation in 1604 A.D., it is the complete repository of and the final authority on the Sikh ideology and its doctrines. Since the Gurus called it revealed Bani, it has been regarded as the Shabad having the sanction of God. The Tenth Master took two important steps in this regard. First, he introduced the Nash doctrine, thereby making a complete and final break with all other Indian ideologies. Neither the Vedas and Upanishads, nor any other religious systems is given any sanction or accepted as authentic. We all know that the Bani of Bhagats in the Guru Granth is a selection. It is accepted only to the extent it is in consonance with the doctrines of the Gurus. And even where differences seem to be suggested, the Gurus have made adequate comments and clarifications. The Bani of Bhagats outside the Granth Sahib is not given any authenticity. Secondly, he made the Sikh Scripture not only as the exclusive vehicle of the Guru's message, but also gave it the status of the Guru, Guide or Teacher of the Sikhs. The creation and sanction of Guru Granth as the sole scripture of the Sikhs reveals that the Gurus were very clear and conscious of its independent and separate character, and wanted their ideology to remain as such without chance of any addition, alteration, or any departure from its authenticity or contents.

1.ARTICLE 25 OF Secular India Versus Sikhism as 5th largest Independent Religion in the world

1539-1947

Santokh Singh writes "Guru Nanak preached human brotherhood, equality and sovereignty. His religion is progressive and scientific. Apart from spirituality, social, economic and political uplift has also been provided. He cogitated and drew the conclusion that poverty and slavery of the masses was due to *Manuvad*". From 1539-1708 Independent religion was established with new Scripture **Sri Guru Granth Sahib**. Vedas and Upanishads are without doubt the scriptures of all Hindu systems. But Sikhism completely denies their authority, and Guru Nanak even calls some of their injunctions to be wrong. The Sikh Gurus were so clear and particular about the independent and separate identity of their religious

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Sikhs During British RAJ Legally were treated as separate religion and Signed always separate treaties with Sikhs before 1947. But, since 1949 has become Hindu subject in India legally per constitution.

2.December 7th 2012 "introduction of The Constitution (Amendment) Bill, 2012 in the Lok Sabha (Indian Parliament) on 7 December 2012 by Dr. Rattan Singh Ajnala, SAD M. P. from Khadoor Sahib,Punjab India for omitting Explanation II under Article 25". Click on Punjab section.

<http://www.ajitjalandhar.com/20121210/>



3. Please note that a Case has been admitted in the Supreme Court of India on the 15th Oct, 2012 [SLP (C) No.: 18634/2011], about the Issue of Identity of the Sikhs, Jains, & Buddhists under the Indian Law, wherein these Communities are (mis)labelled as 'Hindus', thus leading to Discrimination. The Case seeks the Rights that are due to these Communities, as the Secular India treats all Religions as Equal. The Case was admitted by the Chief Justice [of India] Altamas Kabir, Justice SS Nijjar & Justice Chelameswar. The Final Hearing of the Case is on 13th March, 2013.

4. Article 25 in The Constitution Of India 1949 and position of Sikhism, Jainism and Buddhism

click <http://indiankanoon.org/doc/631708/>

25. Freedom of conscience and free profession, practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

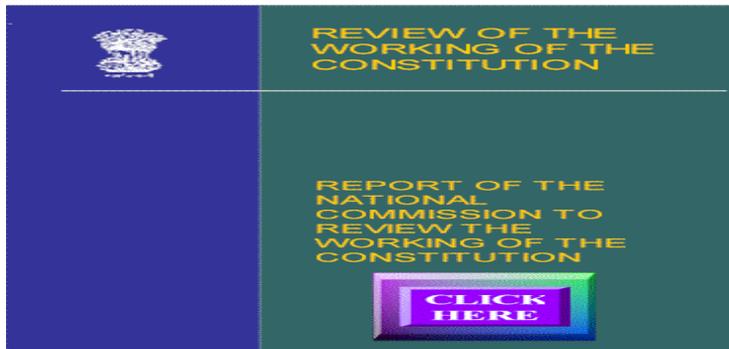
(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus

Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion

Explanation II In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly

5.2002 AD Government of India constituted a Constitutional Review Committee headed by Justice Venkata Chaliah for recommending amendments in Constitution of India. Institute of Sikh studies Chandigarh submitted the memorandum for amending Article 25.

Constitution Review Committee thoroughly studied the issue and accepted the just and logical demand of the Sikhs to amend Article 25. The Constitution Review Committee recommended deletion of explanation II of Article 25 which is controversial portion of Article 25. This recommendation for amending Article 25 has been lying with the Prime Minister's Office for about a decade (2002)



<http://www.lawmin.nic.in/ncrwc/finalreport.htm>. The Commission, without going into the larger issue on which the contention is based, is of the opinion that the purpose of the representations would be served if Explanation II to article 25 is omitted and sub-clause (b) of clause (2) of that article is reworded as follows:-“(b) providing for social welfare and reform or the throwing open of Hindu, Sikh, Jain or Buddhist religious institutions of a public character to all classes and sections of these religions. **“By rewording clause (b) and deleting explanation 2, Sikhism, Jainism and Buddhism will become independent religion Legally Per Constitution Independent secular and will have equal recognition and equal representation.**

6. **“Article 25 Exterminates Sikhism** “ By Santokh Singh
ABSTRACTS OF SIKH STUDIES, Published By Institute of Sikh
Studies, Chandigarh. Vol XIII, Issue 4.Oct-Dec 2011 / 543 NS click
www.sikhinstitute.org **Article 25 Exterminates Sikhism**

By “Santokh Singh’ member institute Sikh studies Chandigarh

Guru Nanak preached human brotherhood, equality and sovereignty. His religion is progressive and scientific. Apart from spirituality, social, economic and political uplift has also been provided. He cogitated and drew the conclusion that poverty and slavery of the masses was due to *Manuvad*. He created an egalitarian society free from Brahminical hegemony. People were attracted towards this new religion, which was based on truth and righteousness. As per Guru’s preaching Sikhs maintained cordial relations with Hindus and Muslims. Spiritual closeness with Islam, total rejection of idolatry worship and mythical *Manuvad* in Sikh doctrine developed grudge in the mind of *Manuvadis* against nascent faith. They approached Mughal Court against the compilation of Sri Guru Granth Sahib. The king rejected their petition. They fought against the Khalsa as hill rajas and approached Aurangzeb who was in Deccan to dispatch royal army to fight against Guru Gobind Singh. After a long struggle of many decades, Sikh revolution was successful and people gained sovereignty from alien rulers. Khalsa blocked the traditional routes of invaders in the West. *Manuvadis* brought British invaders from the east. These selfish elements having no concern for the welfare of masses and having no patriotism, conspired with Britishers and caused the fall of Sikh kingdom and got the state of Jammu & Kashmir as reward. Sikh kingdom was responsible for the present border of Pakistan with Afghanistan and India’s western border with China, demarcated by the Khalsa Army. It is regretted that inefficient and negligent *Manuvadi* rulers gave Aksai Chin to China on a silver platter.

During British rule, Britishers recognized the independence and sovereignty of the Sikh religion. When Britishers decided to leave India they recognized three parties for transfer of power i.e. Hindus, Muslims, and Sikhs. Sikhs opposed partition. Hindus accepted partition. Sikhs sided with Hindus as they did not want further bisection of Indian sub-continent. Sikhs lost fertile lands and prosperous business. More than half million Sikhs lost their lives during the violence of partition. It is a

great tragedy and treachery that after gaining power Sikhs were ill-treated by *Manuvadis*. Rulers forgot the gesture of Sikhs for siding with Hindus during the crucial hour of Partition and unprecedented sacrifices made by them during freedom struggle. Indian Constitution was framed in such a manner that Sikh religion lost its independence and Sikh religion was subjugated to Hinduism and Hindu laws were made applicable to the Sikhs. In a strict legal sense, there is no Sikh religion and Sikhs are a sect of Hinduism or reformed Hindus.

There were two Sikh representatives in the Constituent Assembly of India which framed Constitution. Both the Sikh members refused to sign the Draft Constitution on the plea that Article 25 is anti-Sikh, unjust and communal. Despite this democratic protest this contentious article was adopted. Constitutions are framed to prescribe parameters for law makers for safe guarding the interests of minorities and to check majoritarianism. But Indian Constitution eradicates a minority. Sikhs are opposing and protesting against this controversial piece of legislation right from 1950 when Indian Constitution was adopted.

As a democratic protest Sikh politicians publically burnt the anti-Sikh portion of the Constitution. Rulers have not cared for logic and reason. Sikhs continued protesting against this non-secular and unjust law.

Sikh intellectuals and scholars who felt concerned over the large-scale misrepresentation of Sikh doctrines, misinterpretation of Gurbani and negation of Sikh philosophy's contribution towards the development of mankind, organized Institute of Sikh Studies. S Daljit Singh (IAS) a devoted and dedicated Gursikh, without any ambition for a position was the guiding spirit. He was backed by others stalwarts like S Jagjit Singh and retired judges, generals and senior civil servants. Institute of Sikh Studies (hereafter IOSS) is a non-political and purely a religious organization committed to act as a watch dog of Khalsa Panth. Misinterpretation of Gurbani and misrepresentation of Sikh doctrines is properly replied academically, by writing books, articles and

enlightening Sikh masses during seminars and conferences etc. Dr Kharak Singh took interest in the publication of the literature produced by IOSS. He edited several books. He maintained close liaison with Sikh and secular scholars in India and abroad.

Rulers through their agents propagated that Article 25 is not anti-Sikh. But Sikhs continued their efforts to get Article 25 amended. Government of India constituted a Constitutional Review Committee headed by Justice Venkata Chaliah for recommending amendments in Constitution of India. IOSS submitted the memorandum for amending Article 25. Constitution Review Committee thoroughly studied the issue and accepted the just and logical demand of the Sikhs to amend Article 25. The Constitution Review Committee recommended deletion of explanation II of Article 25 which is controversial portion of Article 25. This recommendation for amending Article 25 has been lying with the Prime Minister's Office for about a decade.

An eleven member bench of Supreme Court of India headed by Chief Justice Sabharwal observed on 8-8-2005 that Sikhs are part of wider Hindu Community. Now there is no scope for misleading Sikhs that Article 25 is not anti-Sikh. It is crystal clear that as per Indian Constitution, the Sikh religion is not an independent religion, but a sect of Hinduism like Jains and Boddhis. So, Article 25 legally assimilates Sikhism into Hinduism. Our national interests demand an immediate amendment of Article 25, otherwise India would lose its secular credentials and become a communal state.

The intellectuals and thinkers of IOSS studied the Supreme Court observation very carefully and promptly reacted. A meeting of Sikh organizations on the call of IOSS was held on 10-9-2005 in the office of IOSS. Resolution for adopting corrective measures was passed. An editorial in the quarterly magazine of IOSS was published requesting for amendment of Article 25 in the National interest. S Santokh Singh, member, IOSS continued writing articles based on logic and reasons,

and emphasizing the urgency to amend Article 25. These articles were published in various magazines having global circulation. S Tarlochan Singh, MP made earnest efforts to get the Article 25 amended. All these efforts made no effect on Indian rulers.

It is worth noting that the Sikh Prophet, in the Sikh scripture (Sri Guru Granth Sahib) categorically declares that Sikhs are not Hindus. When there is a written declaration by the Prophet that Sikhs are not Hindus, the politicians have no right or jurisdiction to classify Sikhs as Hindus. This is a case of naked interference in the religious affairs of the Sikhs with the intention to annihilate Sikhism. This is a clear case of bankruptcy of Indian secularism.

It is left to the discretion of Jathedar Sri Akal Takht Sahib to take cognizance of the blasphemous aspect of Article 25 which opposes Sikh scripture and is against the declaration of the Sikh Prophet.

IOSS wants to make it very clear to the Sikhs that Article 25 of Indian Constitution legally assimilates Sikhism into Hindu fold. So long as this Article is not amended, Sikhs are part of wider Hindu community, they cannot have their own laws like Muslims and Jews, they are to be treated as Hindus and governed by the Hindu laws. Sikhs have to declare themselves as Hindus to get their marriages registered, to inherit the property and to have Income Tax benefits and so on If they do not want to remain as a Hindu sect and want to have independent status for their religion, they will have to get the Article 25 amended by omitting word "Sikh" from explanation II of this Article. Indian constitution has already been amended for about 100 times. This small amendment will uphold the secular credentials of India. This is in the National interest and would strengthen the national integrity. This is just a correction of something wrong done inadvertently. If not amended, Sikhs will construe that this piece of legislation was enacted with the intention of annihilation of Sikhism. The great Sikh Gurus watered the plant of Sikhism with their own blood by making supreme sacrifices for righteousness and freedom of religion. Sikhs are to fight with pen to

preserve justice, righteousness and their religion, which is the latest, most scientific and promises social and economic uplift along with spiritual high values of life. Let not the monsters of *Manuvad* wither up this plant of human brotherhood. This is 21st century and the world has been reduced to a village. People with secular and scientific thinking in India and abroad will come to the rescue of the Sikhs. American Sikhs have already taken up the issue of amendment of Article 25 of Indian Constitution with the United Nations. They have stated in their memorandum: “The treatment of Sikhs in India deserve, immediate attention of UN” This group is known as Sikhs for Justice (SFJ).

All are requested to spare their precious time for the service of Khalsa Panth. Please also enlighten the Sikh masses, with the media at your disposal that at present for all legal purposes Sikhs are being treated as Hindus and are governed by Hindu laws. Muslims, Parsis and Jews have their independent religions and personal laws. All right thinking people are also requested to utilize their position, power and sources for early amendment of Article 25.

IOSS is always at the disposal of Khalsa Panth and will continue its efforts to enlighten the Sikhs and right thinking people of India and all over the world to get the unjust law amended. Let truth righteousness and justice prevail.

“Bill of Rights” in the Constitution of India

Updated

By: Dr. G. B. Singh

Introduction

Many admirers of India often go out of the way to depict India as the "world's largest democracy" and a "secular" state, which through its constitution guarantees fundamental human rights to all Indians -- the implication being that such rights are in practice as a matter of routine. Yet, dismaying as it may seem, I have never come across any piece of written information analyzing the Indian Constitution itself, let alone all those enshrined fundamental rights that it guarantees to its citizens. Coupled with aggressive Soviet-style "active measures" channeled by the Indian government, several intellectuals outside India have fallen prey to the media hype. Included on this list are the key members of US Department of State who upon my inquiry a number of years ago hadn't even seen what the Constitution of India looked like, let alone read it! Our academia-based "India Watchers" and think-tank specialists have also dismally failed to undertake this task: assessing independently the contents of the Indian constitution. Instead what I have noticed is this: they just parrot out what they pick from other sources; obviously without checking the facts.

PREAMBLE

WE, THE PEOPLE OF INDIA having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizen

JUSTICE, social, economic and political
LIBERTY of thought, expression, belief, faith and worship
EQUALITY of status and of opportunity and to promote among them all.
FRATERNITY assuring the dignity of individual and the unity and integrity of the nation.

IN OUR CONSTITUENT ASSEMBLY the twenty-sixth day of November, 1949, do, **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION**



Before analyzing the rights enshrined in the Indian Constitution, a few words on the constitution would be helpful to readers. The Indian Constitution (promulgated in 1950) is the longest constitution ever written. As of December 2007, the Constitution of India comprised 395 Articles, 12 Schedules, 2 Appendices, and constitutional amendments totaling no less than ninety-four in number. Include to this list are amendments of previous amendments -- often each amendment encompassing multiple smaller amendments within its charter. India's constitution can safely be characterized as one of the most complicated of all modern political documents available.

Highly placed Indians with some insight into their constitution will often take

delight in saying that it is based on sound fundamental principles derived from the constitutions of no less than five great Western democracies: Australia, Canada, England, Ireland, and of course, the United States. It all sounds great. Even more impressive is when we hear that the Bill of Rights of the U.S. Constitution has made its way into the Indian Constitution. This is always followed by a note of special thanks to the framers of India's constitution, with particular tribute paid to the likes of Dr. B.R. Ambedkar (well-known leader of India's Untouchable community), who chaired the drafting committee that devised the Indian Constitution. Justifiably, a question begs to be asked: Are all things mentioned above true?

To answer that question, one must at least procure the most recent copy of the Indian Constitution, read it, understand it, and then present the facts as they stand. I did exactly that, which is why I am writing this article.

I hope the reader is familiar with the first ten amendments (commonly called "The Bill of Rights") of the U.S. Constitution, which were ratified in 1791. This information is important since these rights were purportedly imported into the Indian Constitution. For the purpose of this article, it will be worth the effort to reproduce the First Amendment of U.S. Constitution, which states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Substance

Part III of the Indian Constitution (Articles 12 through 35) constitutes the entire minutia on fundamental rights. Of these total of twenty-four articles, Articles 19 and 25 are the only ones that truly correspond to the First Amendment of the U.S. Constitution. Allow me to reproduce Article 19 in its entirety:

Protection of certain rights regarding freedom of speech, etc.

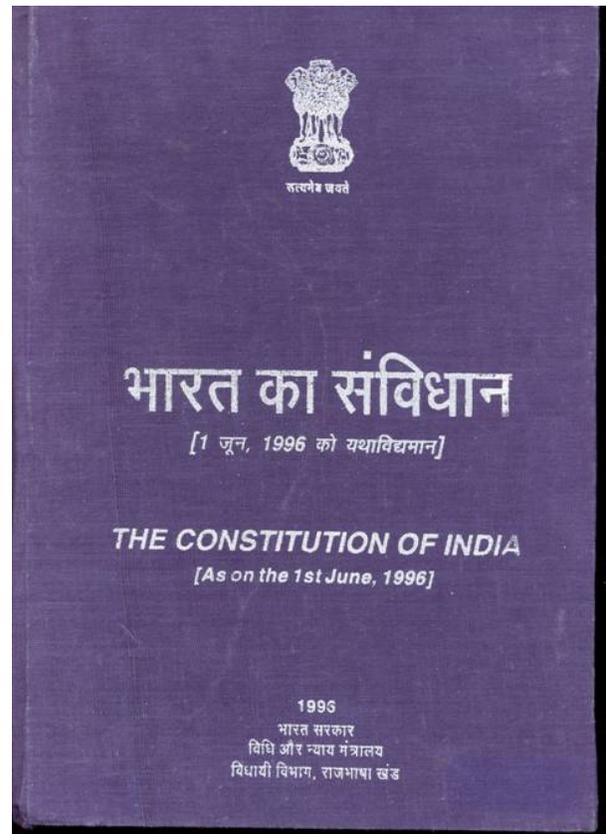
(1) All citizens shall have the right:

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India;
- [and]
- (f) **deleted**
- (g) to practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of the clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.



(5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of the right conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to -

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Granted much of the above narrative is redundant; nobody doubts the clarity of Clause 1 of Article 19. However, given what is written in Clause 2 and onwards, everything changes. The fundamental rights given in Clause 1 have been for all practical purposes nibbled away one by one, thanks to Clauses 2 to 6. The reader must have noticed that Clause 1f, which had been "to acquire, hold and dispose of property," is missing. The 44th Amendment expunged that portion in 1978, most likely enacted to usher political India in tune with Communism, former USSR being at the time India's close ally. Things get even more complicated when you encounter Articles 352 through 360 of the Indian Constitution, which essentially deliver the emergency provisions. Since numerous geographical areas of India frequently have fallen under these emergency provisions, the reality of the fundamental rights supposedly guaranteed under Article 19 and others is revealed, as citizens have been forced to live under the enacted draconian laws.

What makes the fundamental rights problem even more tendentious is that according to the 40th Amendment, the draconian laws may not be challenged before any court on the ground of violation of fundamental rights. If one or more groups of people have suffered terribly from the repressive

hands of the State, the 41st Amendment nails a potential litigant right back to his/her proper place. This amendment has provided that the President, Prime Minister and State Governors are immune from criminal prosecution for life and from civil prosecution during their term of office. What about the Press in India? The exuberant Indian Press exercises its freedom of speech freely, as the apologists reminds us with regularity. But the facts are otherwise. Indian journalists have learned too well how to kowtow to the ruling Indian leaders.

Now, let us take a look at Article 25:

Freedom of conscience and free profession, practice and propagation of religion --

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law -

(a) regulating or restricting any economic, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I - The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II - In sub-Clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

In a historical sense, Article 25 is unique. Even though Hindu hands wrote it following the British departure in 1947, future Hindu hands have spared it thus far from additional amendment. Those responsible for writing Article 25 were no less cunning and deceptive -- they knew how to shelter it behind

the barrage of words that only a few could understand. I have attempted to unravel the mystery of Article 25 to the best of my abilities.

Teachings such as peaceful co-existence, high morals, high ethical values, and respect for fellow humans are integral to any true religion. Given that, why is religious freedom contingent upon factors of public order, morality, and health with respect to religion in India as in Clause 1? Is there such a religion that violates the norms of decent human morality? If indeed there is any such religion, one would think the framers of the Indian Constitution would have alerted us or perhaps would have "banned" that particular immoral religion. Would Hinduism, Islam or for that matter any other religion fall under that category?

With Hindu leaders in charge of Hindu India, the name of the game is unchecked fundamentalist Hinduism, however undesirable it might be to a reasonable mind. But during British-India, this unchecked Hindu fundamentalism came very close to being curbed as recorded in a superbly written book, *Mother India* by Katherine Mayo (Greenwood Press Publishers, 1927), which states:

It is true that, to conform to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, signed in Geneva on September 12, 1923, the Indian Legislature duly amended the Indian Penal Code and Code of Criminal Procedure; and that this amendment duly prescribes set penalties for "whoever sells, lets to hire, distributes, publicly exhibits ... conveys ... or receives profit from any obscene object, book, representation or figure." But its enactment unqualified, although welcome to the Muhammadans, would have wrought havoc with the religious belongings, the ancient traditions and customs and the priestly prerogatives dear to the Hindu majority. Therefore the Indian Legislature, preponderantly Hindu, saddled the amendment with an exception, which reads:

This section does not extend to any book, pamphlet, writing, drawing or painting kept or used bona fide for religious purposes or any represented sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

To conclude, in India, the freedom to practice religion is conditional at best. The power to interpret and exercise the conditional requirements is in the

hands of Hindu leaders and nobody else. This is radically different from what is in the United States where the practice of religion is free, unconditional right. Conversely, in modern India, the practice of religion is a "politician-sanctioned" unreliable right.

Clause 2a of Article 25 is muddy at best. Considering the constitutional write-up, it seems religion is composed of economic, political, and worship activities. Anything other than worship activity is termed "secular." Therefore, in accordance with the constitution, the Indian State has the right to interfere with those activities of the church it considers "secular." The church, structure included, is after all an economic venture. In a socialist country like India: Organized religions (Christianity, Islam, Sikhism, etc.) with large groups of people interacting among themselves and others amounts to nothing less than political activity. Any propagation of religion will require a number of "secular" tasks: financial, organizational, and personnel activities (just to name a few).

The Indian State can constitutionally restrict any one or all of these "secular" endeavors, thereby effectively hampering genuine propagation of any religion it desires. This has already happened, as illustrated in another fine book - *Soft State: A Newspaperman's Chronicle of India* by Bernard D. Nossiter (Harper & Row Publishers, 1970). I suppose one way to be safeguarded from State incursion is for an individual to worship in the open air (which will insure no economic activity) or alone within the confines of a house (which will insure no political activity). How anyone worships individually in these conditions may be beyond the Indian State's intrusive nature! That's my hope!

Now, consider Clause 2b. What does freedom of religion have to do with social welfare and reform? This sub-clause contains a statement with strange wordings that need some scrutiny. First, are Hindu religious institutions of a public character? This term is ambiguous and could mean literally anything or absolutely nothing. My gut feeling is that it pertains to Hindu schools, the temples, and ashrams. Second, is a reference to the "classes" of Hindus? This is an inappropriate western terminology in reference to the Hindu society. Nonetheless, if the term has to be used, the majority of the Hindu population falls into the low class while the minority belongs to the middle and upper classes. Third, what are the "sections" of Hindus? At the lowest common denominator, the bulk of Hindu sections comprise the *Vaishnava*, *Saiva*, and *Sakti*.

The State can regulate the opening of Hindu temples, schools, and/or ashrams to all high, middle or low Hindu classes irrespective of whether one is *Vaishnava*, *Saiva*, Saktia, or what have you. This interpretation may be off the mark if I am reading incorrectly because of the use of terms that are vague. Unfortunately, the framers of the constitution missed the crux of the problem.

The Hindu society is governed by caste (or *varna*), and not just necessarily by the classes and sections. And certainly the caste is not the same thing as class and section. If you feel that the framers of the constitution were themselves not sure of what they wrote or its underlying meaning, they perhaps hoped that the reader would be reassured in the offering of Explanation I and II. At this juncture I am reminded of how abrupt the change is in the narrative of Article 25. Hardly a surprise here however, but it triggers any thinking person well-read into Hinduism to chart the similarities that one encounters after careful reading of the Hindu scriptures. For example in the *Bhagavad-Gita*, it is not uncommon to see that a transition from one topic to another is often disconcertingly abrupt. I am afraid this is clearly the case here at this juncture in Article 25.

Explanation I and II are not even remotely connected with Clause 2b. The fact is that Explanation I and Explanation II urgently call for explanations of their own. Explanation I acknowledge the existence of the Sikh religion. However, since the issue is the individual religious rights (in Sikhism), the proper word ought to be "*kirpan*," and not "kirpans." Moreover, Explanation II is notoriously flawed. Its intent is obvious: the individual members of Sikh, Jain, and Buddhist religions will be referred to as Hindus, and thus retroactively Sikhism, Jainism, and Buddhism are to be considered merely inseparable sects of Hinduism. Therefore, the State can interfere with their religious institutions as it sees fit, under the guise of procuring "social reforms."

Since the constitution refuses to delve further, one might ask: Is there a definition or an explanation of what constitute Hinduism? And who really is a Hindu? Answering these questions has been anything but easy and clear in part because both these terms--Hindu and Hinduism—are absent entirely from their varied scriptures and had been sponsored by their colonial masters, both Islamic and British respectively. Scholars over the years have tried their best but failed to address these terms adequately. Of lately the Supreme Court of India has pitched in. For example in 1965, the Court

observed that the term "Hindu" referred to *"the orthodox Hindu religion which recognizes castes and contains injunctions based on caste distinctions."* By 1966, the Court stepped in further. Rather than defining the issue, it issued broad guidelines--to be precise three different "standpoints"-- which require an art and gift of application to the circumstances. They are worth reading:

First Standpoint: *"We find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional [for traditional, read Western] features of any religion or creed. It may broadly be described as a way of life and nothing more."*

This "guideline" confusing as it can be fails to ascertain whether one is a Hindu or not. To clarify further, the Court introduced the second guideline.

Second Standpoint: Beneath the diversity of Hindu philosophy, the Court found, *"lie certain broad concepts which are treated as basic."*

Those broad concepts are: (a) Acceptance of the Vedas as the highest authority in religious and philosophic matters. (b) The great world rhythms. (c) Rebirth and pre-existence. Having pinpointed the "unity" of the creed here, then the Court proceeded to address the final guideline.

Third Standpoint: Addressing the often asked insidious philosophic question as to what is the "ultimate goal of humanity," the Court answered, *"It is release and freedom from the unceasing cycle of births and rebirths...."*

Religious literature would call this goal as: SALVATION. But salvation as understood is something pointing to an individual person and not necessarily addressing the collective sense of humanity. Perhaps after recognizing that the Court potentially might open a can of worms, it left the burgeoning issue unanswered by agreeing *"there is a great divergence of views"*

Rather than adequately resolving the given problem of "Hindu" and "Hinduism," the Court's interjection actually complicated the matter and therefore it needed a quick rescue. In searching for the "working formula," they found in the person of B.G. Tilak (1856-1920), a fiery politically-

drenched fundamentalist Hindu, who apparently had once prescribed: *"the acceptance of the Vedas with reverence, recognition, of the fact that the means or ways of salvation are diverse; realization of the truth that the number of gods to be worshipped is large."* In the end, thanks to the Court, when all is said and done, it boils down to this: "Hindu" and "Hinduism" are false terms bounded by the foundational hierarchy-arranged caste, aided by the doctrines of karma and reincarnation as its supporting outer boundaries. Inside this rather large hierarchical triangular entity, the framework is supported by myriad hosts of pillars that tighten and cement the construction from inside out: These include worshipping an army of gods and goddesses, incredible loads of superstitions and rituals, yoga, ayurveda, corruption, immoralities, inflicting human-rights abuses, self-inflicted psychology guaranteeing brain washing, totalitarian mode of life, *real-politics*, and war. The list actually is a long one. It's not too difficult to imagine that separating oneself from Hindu conditioning is next to impossible. If you think you have been let down by India's Supreme Court to resolving this matter, then you may be even heading further for a shock: Hindu politicians and their followers continue to be willfully negligent in their refusals to add any needed clarity.

Only recently in 2011, there has surfaced a further insight into Hinduism-- this time the Punjab and Haryana High Court pronounced its verdict on a case filed by two Sikh petitioners against the misuse of the word "Hindu" applying on the very personal identity of Sikh people portrayed within the charter of four named Hindu Code Bills, later enacted as laws: (1) Hindu Succession Act, 1956; (2) Hindu Marriage Act, 1955; (3) Hindu Adoption and Maintenance Act, 1956; and (4) Hindu Minority and Guardianship Act. 1956. While denying the petitioners their case, the Court defined Hinduism as: "Hinduism, as we have been made to understand by scholars and sages at different times and different ages is not a strait jacket religion; it is a way of life. It is a 'Dharma'. Hindus are not one people but many. Therein lies the beauty of India." One can see how insufficient and pathetic this definition of Hinduism is apart from being irrational and illogical.

Like the Sikhs, the Jain community too has been vocal in their denunciation of Article 25. Recently it has come to my attention that apparently the Jains sought an understanding from the then Prime Minister JawaharLal Nehru. In response, Nehru's Principal Private Secretary, A.V. Pai, (writing for his boss) penned the followings words for the benefit of Jains, dated January 31, 1950:

"This Article [25] merely makes a definition. This definition by enforcing a specific constitutional arrangement circumscribes that rule. Likewise you will note that this mentions not only Jains but also Buddhists and Sikhs. It is clear that Buddhists are not Hindus and therefore there need to be no apprehension that the Jains are designated as Hindus. There is no doubt that the Jains are a different religious community and this accepted position is in no way affected by the constitution."

Again and hardly a surprise here to see how illogical and evasive the above clarification is! Why the educated Hindus placed high in political positions speak from both sides of their mouths? Why can't they simply amend the controversial Article 25 to reflect the religious rights truly? Why would they continue to exercise deceptive means to declare non-Hindus as Hindus, and yet never define for us as to what Hinduism is in the first place?

In August 2005, continuing with the ongoing issue of personal religious identities affecting the Jains per se, the India Supreme Court refused to grant any relief to religious minority communities (in this case Sikhs and Jains) from being bracketed under the label of Hindu.

The word "secularism" is often invoked diligently by the caste Hindus when describing the Indian State in a spirit of nationalistic Hinduism, with an underlying implication of the Hindu expansionist quest to absorb other religions. The western definition of "secularism" is when the State and public policies take precedence over religious considerations. In other words, in the West, there is a separation of church and state. But most Indians, including their leaders, have their own self-serving bizarre definitions. One often cited goes like this: "equal treatment of all the religions by the State." Is that a desirable goal? If it is then how can any State achieve such a goal?

In the Indian context, I suppose the easiest way for the State to treat all religions "equally" would be to intrude into every religion equally and if need be, somehow proclaim all religions are one and inseparable part of Hinduism -- therefore making everyone in India a Hindu. This is precisely what is happening in India. Since everyone is a Hindu, the leadership expects a response in kind. It usually shows in an intellectually flawed population which has stamped itself with a bogus notion echoed in the buzzword called *sameness*. This is an expression erroneously viewed as synonymous with *equality*.

Under this framed scenario, the very thought of discrimination or even persecution of one religion by another need not arise since we are all the same, that is, Hindus. Obviously, this kind of an argument carries a heavy price tag. When told that India's sacred constitution exudes an egalitarian system, years of Hindu conditioning have transfixed the populace to acquiesce to any communiqué coming down from the top. Few will ever fathom that India's egalitarianism is not the same sort we know in a Western sense, but is of an entirely different substance. It is rooted in the infamous caste system, or in a more precise language, the Hindu Apartheid. While the caste system is alive, thriving, and functional, India's Hindu leaders boast of an Indian democracy, ignoring its pervasive underlying segregation and inequality. This sounds magnificently absurd. Many Indian leaders on one hand enjoy the fruits of being born into an elite caste (while the majority of the population rots at the lowest levels of caste), while on the other hand mindlessly they sing the gospel of equality.

The caste being a substructure of Hindu society, the talk of "equality," "democracy," and "secularism" reverberates only to mislead the masses. Not surprisingly, this kind of tactical maneuvering to deceive is clearly evident in the Indian Constitution and conspicuous in the State's public policy and internal propaganda. While Sikhs, Jains, and Buddhists have already been "secularized" constitutionally, Christians and Muslims are now also in the process of being "secularized" through state-orchestrated propaganda. A number of Indian leaders now call Indian Christians and Muslims as "Christi Hindus" and "Mohammadiya Hindus," respectively. In addition, some provincial state governments inside India have already enacted anti-conversion laws while others are contemplating ensuring the Hindu population doesn't slide away into something else.

Conclusion

Other amendments of the Bill of Rights in the U.S. Constitution guarantee the American people numerous other fundamental rights. These include right to bear arms (Amendment II); protection against government officials who might invade their homes and seize property without legal permission (Amendment IV); protection against being "a witness against himself" in any criminal case or being "deprived of life, liberty, or property, without due process of law" (Amendment V); the right of a person accused of a crime "to a speedy and public trial by an impartial jury" (Amendment VI); and

protection against "cruel and unusual punishments" (Amendment VIII). Can the Constitution of India match word-for-word the U.S. Bill of Rights? And, if it cannot, can its intentions at least match those of the U.S. Bill of Rights? If reading Articles 19 and 25 has left anyone with a cause for concern, then the remaining portions of Part III of the Indian Constitution should not come as a surprise. After due consideration, it remains unclear if the Indian Constitution guarantees fundamental rights as is generally claimed, despite the endless rhetoric from India's leaders, its intelligentsia, and its apologists.

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