

## **ROLE OF LAW STUDENTS IN INDIA TODAY\***

**Hon'ble Mr. Justice Cyriac Joseph\*\***

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It is the duty of every citizen of India to uphold and protect the values of our Constitution. It is more so in the case of those who are privileged to study law or practise law.

### **Concept of Values**

The concept of values is a tricky one. It is rarely defined. Normally it should connote the esteem or regard in which a thing or principle is held. It is the quality of viewing some norms or beliefs as necessary and desirable or worth preserving at all costs for an individual or a group. It may be understood as the conception of the 'ought' - what ought to be desired or not desired, what is desirable and what is not desirable. It is hardly possible to measure such 'value' in economic terms or in terms of practical utility, usefulness or benefit or success potential. In the realm of values also there are some constants and some variables. Some fundamental or foundational values are immutable and inalienable and hold good at all times, climes and places. There are others which keep developing and changing according to the societal needs of the times.

### **Basic Values of Our Constitution**

The basic constitutional values are those values on which the founding fathers in their wisdom and sagacity built the entire edifice of the Constitution and which were, in the words of our Supreme Court, so basic, eternal and unalterable that in the absence of anyone of them, the Constitution would lose its identity and would no more be the same Constitution. The basic constitutional values are, therefore, the constants of the Constitution which the founders of our Republic hoped would guide all those who, from generation to generation, were called upon to work the Constitution. What are these constants or basic values enshrined in our Constitution? Where do we find them?

It is, above all, the Preamble which embodies the fundamental values, the philosophy and the ethics on which our Constitution is based and built and the aims and objectives which the founding fathers enjoined the policy to strive to achieve. These have been further elaborated in the chapters on Fundamental Rights, Directive Principles and Fundamental Duties. The rights of the individual against the State are sought to be protected by an independent judiciary, provision of judicial review of legislation and making the validity of all laws subject to fundamental rights and securing to the individual the right to move the highest court for the protection of constitutional rights contained in the Fundamental Right's chapter.

\* Abstract of the Speech delivered by Hon'ble Mr. Justice Cyriac Joseph, Former Judge, Supreme Court of India at Bharati Vidyapeeth Deemed University, New Law College, Pune.

\*\* Former Judge, Supreme Court of India.

The constitutional values of the Preamble, the Fundamental Rights and the Directive Principles are supposed to permeate the entire Constitution. The whole edifice of the Constitution and the structure of the political system were meant to protect and promote the constitutional values or elements embodied in the Preamble.

While adopting the Constitution of India on 26th November 1949, the members of the Constituent Assembly, on behalf of the People of India, solemnly resolved to constitute India into a Sovereign, Democratic, Republic and to secure to all its Citizens: Justice - social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and also to promote among them all Fraternity assuring the dignity of the individual and the unity of the Nation. The said Resolution of the Constitution Assembly was incorporated in the Preamble of the Constitution.

By the Constitution (42 Amendment) Act, 1976, the Preamble of the Constitution of India was amended substituting the words 'Sovereign, Socialist, Secular, Democratic Republic' for the words 'Sovereign, Democratic Republic' and the words: 'unity and integrity the Nation' for the words: 'unity of the Nation'. Though from the time when the Constitution was adopted in 1949, India was perceived and projected as a socialist and secular country. After 27 year of experience, the Parliament felt the need for explicitly expressing and emphasizing the Nation's commitment to the ideals of socialism and secularism. We shall not miss or overlook the significance and spirit of the abovementioned amendment adding the words 'Socialist' and, 'Secular' in the Preamble of the Constitution. The Constitution (42nd Amendment) Act also sought to emphasize the need for assuring not only the unity but also the integrity of the Nation.

Thus, according to the text of the Preamble as it stands today, the supreme or fundamental constitutional values in which the founding fathers believed, which they wanted to foster among the people of the Republic and which, they hoped, would guide all those who were called upon to work the Constitution are:

- Sovereignty
- Socialism
- Secularism
- Democracy
- Republican Character
- Justice
- Liberty Equality
- Fraternity
- Dignity of the Individual, and
- Unity and Integrity of the Nation

There is criticism that India has been slowly deviating from the path of socialism during the recent years. The allegation is that 'socialism' does not reflect as a constitutional, value in the policies of Governments. The problem probably lies in the difference in perceptions of people about socialism itself. What is socialism? The Constitution Amendment Bill attempted to define the word 'socialist' to mean 'free from all forms of exploitation - social, economic and political'. However, the Bill was finally passed without the definition. Dictionary meaning of the word would imply, 'in full or in part, placing means of production and distribution in public hands, *i.e.*, under public (meaning State) ownership and/or control as against private ownership and free enterprise'.

It is said: "Socialism is an empty vessel into which any content could be poured. It is a convenient alibi to rationalize the constitutionality of the economic policies of incumbent governments at various times".

It is also said: "Socialism is a cap which fits every head that wears that"; and "Socialism is a cap which takes the shape of the head that wears it."

According to the Supreme Court, "The principal aim of a socialist State is to eliminate inequality in income and status and standards of life. The basic framework of socialism is to provide a decent standard of life to the working people and especially provide security from cradle to grave. This amongst others on economic side envisaged economic equality and equitable distribution of Income. This is a blend of Marxism and Gandhism leaning heavily towards Gandhian Socialism."<sup>1</sup> It is useful to recall the following statements in the Objects and Reasons of the Constitution 42nd Amendment: "The question of amending the Constitution for removing the difficulties which have arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity, has been engaging the active attention of Government and the public for some time."

It is, therefore, proposed to amend the Constitution to spell out expressly the high ideals of socialism to make the comprehensive Directive Principles more.

The word 'Socialist' in the Preamble should be read and understood along with the words 'Justice - social, economic and political' appearing in the Preamble and in the light of the provisions contained in Article 38 of the Constitution which reads: "The State to secure a social order for the promotion of welfare of the people'.

- The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice - social, economic and political, shall inform all the institutions of the national life.

- The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and

1. *D.S. Nakara v. Union of India*, 1983 (1) SCC 305.

opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations."

In other words, in the Socialist Republic of India, all the citizens should get justice - social, economic and political. What is justice? Justice cannot imply arithmetical equality. But it does imply an egalitarian society where everyone gets what he needs and no one takes more than what he deserves. I believe that the dream of the legal luminaries and the visionaries in the Constituent Assembly was to secure justice to all the citizens of India by ensuring that everyone gets what he needs and no one takes more than what he deserves. In my view, the concept of socialism perceived in the Constitution of India is unique and different from what is defined in the dictionary or what is perceived and practised in the so-called socialist or communist countries. Instead of being bogged down by the dogmatic interpretations of socialism, we should have a pragmatic and realistic understanding of the word 'Socialist' in the Preamble of the Constitution. To judge whether the policies of the Government will establish a Socialist Republic, the test should be whether the policy envisages that everyone will get what he needs and no one will take more than what he deserves. Such a policy should ensure that there is sufficient scope and opportunity for individual initiative and personal development and growth, without permitting social or economic or political exploitation of any section or individual. The citizens of India and the Governments functioning under the Constitution stand committed to build such a Socialist Republic.

The word 'Secular' incorporated in the Preamble of the Constitution in 1976, also requires proper and correct understanding. The object of incorporating the said word in the Preamble was only to highlight and emphasize the meaning and content of the already existing provisions in the Constitution which had envisaged India as a Secular, Republic. The object was not to introduce any new concept or goal. Mr. Donald Eugene Smith explained Indian Secularism in the following words: "The secular State is a State which gives individual and corporate freedom of religion, is not constitutionally connected to a particular religion, nor does it seek either to promote or interfere with religion."

According to Mr. Subhash. C. Kashyap : "Unlike the West, in India, secularism was never born out of the conflict between the Church and the State. It was perhaps rooted in India's own past history and culture, a very likely response to her pluralism or the desire of the founding fathers to be just and fair to all communities irrespective of their numbers.

Very often, in our common parlance, the term secularism therefore is used merely as an opposite of 'communalism'. The meaning sought to be given to the term has been that of *Sarva Dharm Sambhava*, i.e., treating all religions alike or giving equal respect to all religions, instead of *Dharm Nirpeksh* or *Panth Nirpeksh*, i.e., the State neutrality in matters of religion."

The provisions contained in Articles 25 to 30 of the Constitution of India

present a unique and dynamic concept of secularism which is certainly different from the traditional or western concept of secularism. Secularism as conceived in the Constitution of India is neither anti-God nor anti-religion. It does not promote materialism or decry spirituality. It permits religions and religious values to influence the people. It prohibits any official religion for the State, but guarantees full freedom for all religions and it requires the State to extend equal treatment to all religions. It also recognizes the right of a person not to have any religion at all. It prohibits discrimination on the ground of religion and guarantees equal treatment to all religions.

Of course, the concept of secularism contained in the various provisions of the Constitution of India defines the relationship between the State and the religions. But it is not a mere definition of the relationship between the State and the religions. It is a more dynamic concept which also deals with the relationship between citizens and religions. One has the right not to have any religion but he has also the obligation to recognize and respect the right of others to profess, practise and propagate any religion of their choice and he shall not offend or hurt the religious sentiments of others. Similarly, one has the right to profess, practise and propagate any religion of his choice, but he has also the obligation to respect the right of others not to have any religion at all or to profess, practice and propagate any other religion of their choice. One is entitled to be proud of his own religion and to proclaim it, but he has no right to decry or denigrate other religions. Thus, Indian secularism defines not only the relationship between the State and the religions but also the relationship between a citizen and his own religion, if any, and other religions. It is a command to the State to protect religious freedom and to extend equal treatment to all religions and more significantly it is also a clarion call to the citizens to respect other religions. This dynamic dimension of Indian secularism is often lost sight of and consequently, conflicts and frictions arise in the name of or for the sake of religion. Hence, it is the duty of every citizen to imbibe the real spirit of secularism and to work for religious harmony and national unit. To be secular, one need not be a materialist or give up his religion and spirituality. By professing, practising or propagating a religion one does not cease to be secular. While being a true follower of one's own religion, one can also be secular by recognizing the right of others to profess, practise and propagate religions of their choice and by respecting other religions. Thus, being secular is not necessarily being irreligious. It only means being a true religionist, if you have a religion, and being respectful to other religions.

According to Justice K. K. Mathew: "Secularism in the context of our Constitution means only an attitude of live and let live developing into the attitude of live and help live." If secularism is understood and practised in the above sense, you will be able to transform our society into a better society and to uphold and protect the unity and integrity of India. I request you to accept this challenge and save our Country."

You are living in a very competitive world. You are at the threshold of a



professional career offering possibly the toughest competition. Faced with tough competition, there will be temptations to give up and accept defeat or to resort to shortcuts unmindful of human and ethical values. You should not succumb to such temptations. You must have dreams in life and the determination to realize them. You should be ambitious enough not to give up or accept defeat. You must convince yourself that you can do it with hard work, perseverance and patience. But, don't go for shortcuts sacrificing human and ethical values, because shortcuts may bring to you temporary success but they will definitely lead you to ultimate failure and humiliation. Principled and value-based hard work with perseverance and patience will bring to you slow but long-standing or permanent success without any loss of prestige and reputation. Hence, the formula or mantra for success is - Ambition, Hard work, Perseverance, and Patience.

Those who choose to practise law should remember the words of late K. M. Munshi that 'Law is a jealous mistress'. She will not tolerate any lack of attention or permit you to look to anywhere else. Full and total dedication and commitment are necessary for success as a legal practitioner.

Whichever be the career you choose, you will have occasions to interpret and apply the law. On such occasions, you should remember that 'Law is for man and not man for law'. It is a basic principle to be followed for securing justice to all citizens. To follow this principle, one will require not only a good brain but also a good heart. Good heart means the willingness, anxiety and enthusiasm for doing good to others. In other words, law must be used as an effective instrument or weapon to do good to others, particularly the weak and the poor.

For growth and development of the society and the nation, right kind of leadership is required. The country can march forward only under the dynamic leadership of good leaders. You are cut out for the role of leaders. With your legal education and training, you are a privileged class, duty bound to provide leadership to the society. You must accept the challenge to provide leadership to the society. But remember that a good leader is one who knows the way, shows the way and goes the way. We have many leaders who know the way and show the way. But we have very few leaders who know the way, show the way and also go the way. The Nation looks upto you for the right kind of leadership and you should not disappoint the Nation.

The course of history and the destiny of the world have changed only on account of people who dared to think differently, speak boldly and act decisively. At times one such individual was and more often a few such individuals were responsible for the change. The Nation needs such individuals who are capable of thinking differently, speaking boldly and acting decisively to change the course of history and the destiny of India. I am sure that you can be such individuals. There is no thrill in thinking just like others or in simply treading the trodden path or in keeping convenient silence when truth and justice are denied. There is no thrill in running for a safe

shelter when situation demands taking of risk. Remember the words of Dante that ‘ the hottest place in hell is reserved for those who remain neutral in a moral crisis’. Martin Luther King has said that ‘when you see the truth but cease to speak the truth is the day you begin to die’. Hence, go for the thrill of being different and unique and enjoy the satisfaction of influencing the course of history and the destiny of India.

We need leaders with Vision, Mission and Passion. A leader should have a clear vision about the goal to be achieved. He should take it as a mission to achieve it. He must have the missionary zeal to work for it. He should also be passionate about achieving it.

If you want to effect changes in the society, don't start with criticising others and asking them to change. Instead, start with criticising yourself and subjecting yourself to such change. First let the change take place in your life and then ask others to change. You must be leaders who practise what you preach. Light a candle, instead of blaming darkness.

To conclude, let me remind you of the fundamental duty of a citizen under Article 51-A(j) of the Constitution of India: “To strive towards excellence in all spheres of individual and collective activity so that the Nation constantly rises to higher levels of endeavour and achievement”.

