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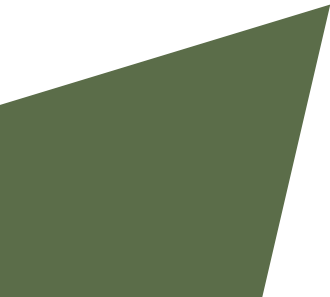
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**State and Religion, A multifaceted relationship: An Overview**

**Md. Zakir Anam Shah**

## ABSTRACT

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*India is known for its diversity in the region, languages, food, clothing, festival, states, and in everything that represent the world, country and its people. It is a republic country that is for the people, by the people and of the people. The person changes as per the location and so the beauty of the heritage. It is a secular state having different religion and languages and has a unique culture that binds us all together hence; it states that India is a greater unity in diversity.*

*Law is a set of rules that is used to regulate the society to maintain order and peace. The law is used as a penal instrument to determine crime. It is a specialized agency to enforce the control the society in India. The term religion has acknowledged a great deal of intellectual analysis in recent years. It mostly demarcates a particular realm of behaviour. It is a mixture of fixed number of boundaries and continuous communities guided by scripturally based beliefs. As per the liberty of conscience, all the individuals has the liberty to choose and practice their own religion they want to embarrassed but it should be in a lawful manner. All the religions and their believers deserve equal treatment under the law. The paper narrates the visions of the state as well as contention over India's varied religious traditions and those who follow them. It deals with the present scenario of India with regards to the religion and governance, and to mould the present in such a way so that it can give birth to a fruitful future. Hence, it is a detailed study about its impact in the society.*

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**KEYWORDS:** Law, governance, religion, conscience, society

*“When State and Religion are one, Religion becomes a means for the powerful to remain in power.”<sup>1</sup> –*

*Walter Jon Williams*

## INTRODUCTION

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India is a land of diversities. This diversity is additionally visible within the spheres of faith. We sleep in a society where everyone differs in their ideas, aims and beliefs. There must be some consistent rules and regulations to regulate their actions and commotions. This controls the human behaviour. The connection between state and religion has often been debated within the history of mankind for hundreds of years. The debate can turn emotional when the followers influences the political directions and policies of the state, by the teachings and doctrines of their religion and where the politicians find that the general public are affiliated to religion, they struggle to strike a balance while ensuring that, it won't significantly diminish their political influence.

## STATE

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State is a political institution which is greatest of all human association. Every individual is the member of the state. The Greeks used the word 'policis' which signifies state. The term state came into existence within the 16th century which is employed within the book "The Prince". The term state springs from the word 'status' which was first employed by the Teutons. It is used as a synonym to government, nation, society etc. It represents sovereign people that occupy definite territory.

The term state has been defined by many political thinkers in several ways. As per Aristotle, state may be a union of family and villages having for its end an ideal and self-sufficing life by which we mean a cheerful and honourable life.

As per Cicero, the state is a numerous society united by a standard sense of right and mutual participation in advantages.

According to Wilson, state is people organised as per law within definite territory.

The state comprises of 4 essential elements like: -

## **POPULATION-**

There should be people in every state who are going to be under its governance.

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<sup>1</sup> <https://www.brainyquote.com>



### **TERRITORY-**

The portion or the boundary should be clearly demarcated and there should be no dispute.

### **GOVERNMENT-**

There must be some sort of government like dictatorship, democracy, monarchy. The government is suitable to the people and in charge of its actions. Aside from administrative head there should be legislature to border laws and judiciary to interpret and finalise it.

### **SOVEREIGNTY-**

The state should have sovereignty and free from foreign country's means the people are their own master and their rulers are acceptable to the people.

## **WELFARE STATE**

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The nature and character of the state is abruptly altering. The right of a state is desired by every state may it's a socialist, communist or capitalist. Recently, the concept of state has been introduced. It had been originally introduced by Archbishop William Temple in "Citizen and Clunchman (1941)". Sidney Webb could also be a chief promoter of this theory.

Most of the fashionable democratic countries are 'welfare states'. The establishment of welfare states in democratic countries was a stimulating development of the 20th century. A state could also be a state or a government meant for the welfare, or the wellbeing of the people. In other words, it is a government which mainly aims at the 'welfare' of the people. A state takes the responsibility of the welfare and thus the economic and social wellbeing of its citizens. Welfare means the benefits or different modes of aid provided to the people. It is often in terms of money or services. Subsidies, concessions, cash payments, grants and public distribution come under the term welfare. Of those welfare measures amount to the redistribution of governmental revenue to the needy.

According to G.D.H. Cole- The welfare state is a society in which an assured minimum standard of living which becomes the rights of every citizen.

As per Herbert H. Lehman – Welfare state is simply a state in which people are free to develop their individual capacity, to receive first award for their talents, to engage in the pursuit of happiness, unburdened by fear of actual hunger, actual homelessness or oppression by reason of race, creed and colour.

## RELIGION

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India referred to as the land of spirituality and philosophy, was the birthplace of some religions, which even exist today within the world. The foremost dominant religion in India today is Hinduism. About 80% of Indians are Hindus. Hinduism may be a colourful religion with a huge gallery of gods and goddesses. Hinduism is one among the traditional religions within the world. It's alleged to have developed about 5000 years ago. Then, in ancient period other religions developed India.

***“RELIGION AND GOVERNMENT WILL BOTH EXIST IN GREATER PURITY, THE LESS THEY'RE MIXED TOGETHER.” – Madison***

About 500 BC two other religions developed in India, namely, Buddhism and Jainism. In present, only about 0.5% of Indians are Jains and about 0.7% is Buddhist. In past Jainism and specially Buddhism were very fashionable in India. Those who accepted Buddhist philosophy spread it not only within the Indian sub-continent but also within the kingdoms of east and south of India.

These three ancient religions, Hinduism, Buddhism and Jainism, are known as the moulders of the Indian philosophy. In 'modern era' new religions were also established in India. Alongside the religions that developed in India, there are followers of non-Indian religions. The most important non-Indian religion is Islam. They're about 12% of the India's population. Christians are quite 2% of India's population. There also are Zoroastrians who are 0.01% of India's population, are known around India.

### **FREEDOM OF RELIGION:**

India is a secular state. Under Article 25-28 of the Constitution of India, certifies the liberty of faith in India. However, in *S.R Bommai v. Union of India*<sup>2</sup>, Supreme Court of India ruled that India was a secular state from the time it adopted its constitution. Every citizen of India features a right to practice and promote their religion peacefully.

***“WE ESTABLISH NO RELIGION IN THIS COUNTRY. WE COMMAND NO WORSHIP. WE MANDATE NO BELIEF, NOR WILL WE EVER. CHURCH AND STATE ARE, AND MUST REMAIN SEPARATE.” – Reagan***<sup>3</sup>

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<sup>2</sup>[1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC1

<sup>3</sup> www.azquotes.com

## **LIBERTY OF CONSCIENCE**

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Conscience means the sense of ethical preciseness that governs or influences an individual's conducts or thoughts. It's the strength within us by which our actions are tried and judged. Freedom of conscience signifies that a person is liberal to entertain whatever ideas of integrity suits to him. The principle is that a person can never be burdened from thinking whatever he chooses. Every man is liberal to think his own thoughts and to possess his own speculations about religion and morality. No other person except himself has any power to mandate him, that which belief system he shall be following. It includes the freedom of religion, belief and worship as began within the preamble, which can be religious (attaching a faith to a god) or non-religious.

Article 9 of Human Rights Act gives protection to our freedom of belief, thoughts, religions and conscience. Freedom is living in an open, tolerant and diverse society, where people can think, believe and subscribe multiple views, religions and teachings.

This concept has been depicted in Article 18 of the Universal Declaration of Human Rights: "Everyone has the right to freedom of thought, conscience and religion." this text then cites samples of these freedoms. Among them is the liberty to vary one's religion and to follow it distinctly.

## **RELATIONSHIP BETWEEN STATE AND RELIGION:**

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The best root to know the connection between state and religion in Malaysia is that the Federal Constitution. Article 3(1) of the Federal Constitution, while stating that Islam is that the "religion of the Federation," also states that "other religions could also be practised in peace and harmony in any a part of the Federation."

This article deals with the connection between state and religion in a comparative law approach.

Many states are actually battling many problems, although their points of inference differ widely. There are multiple perspective relating state with religious views. One can refer it in at least three dimensions:

- 1) With Law
- 2) With Governance
- 3) With Society

## **LAW:**

Law may be a set of rules that regulates the society to take care of order and peace. The word “law” springs from an old Teutonic root ‘lag’ which suggests something which remains fixed or evenly. The word “law” is additionally related to the Latin word “jungere” indicates ‘a bond ‘or ‘a tie’. Hence, generally law is that the body of ruler to guide human activities. It's the merchandise of human interaction, behaviour and endeavour.

According to Blackstone, law in its most general and comprehensive sense, signifies a rule of action whether animate or inanimate, rational or irrational<sup>4</sup>. As per Salmond, the law could also be defined as the body of principles recognised and applied by the state within the administration of justices. As per Austin, a law is a command which obliges an individual or persons to try a course of conduct”. Religion is that the very basis of human life which is not just following a belief but it is also the way of living because the followers of a selected religion follows a specific quite livelihood and with this moral duty of following certain rules the religion enters the boundary of law whereby a private is compelled to follow or not to break the principles decided by a state (i.e. any country). Law is intently allied with state that state without law is rebellious and law without state is meaningless. To MacIver, “the state is both the child and parent of law.” Law not only prescribes the principles of behaviour for citizens within the State but also provides a social order without which no civilisation and economic development is possible. Law is that the results of development and a product of history, hence it is a factor on which it depends upon like custom, usage, religion, equity, precedent, scientific commentaries, legislature, codification, statutory interpretation etc. Hence, it's extremely evident that the law and religion are enthusiastic to at least one another before the concept of state or democracy, people were bound to follow the religious duties and should claim religious rights. Thus, during this manner religion was playing a very vital role of maintaining law and order in ancient societies at different parts of the earth.

## **GOVERNMENT:**

In the Indian way of life religion plays an important role and thus the idea of our day-to-day life is religion. Political leader's right from the start felt that if there's any option of retaining unity in India, it should be maintained by secular. That's why Gandhiji had been preaching brotherhood among the varied religious groups. Nehru was a strong supporter of secularism. Their efforts couldn't split religion from politics rather in politics the vested interests started misusing caste and religion for gaining political benefit. Religious places are used for political propaganda and thus the religious sentiments of the people are excited so as to realize the

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<sup>4</sup> www.scribd.com

political control of the state. Hence, this emergence of political party of religion has threatened the secular character of India. It's feared that if it succeeds there's a chance that tons of other political parties with caste and religion because may come up.

Before moving on, one current question possesses to be answered here. That is: Should the govt. be permissible to use religious symbols and non-secular references?

Constitutions of democratic states often legitimize government authority by concerning the sovereignty of the people or to the sovereignty of the state. Government authority doesn't have a spiritual or religiously inspired foundation. Every citizen should be able to accept government authority and every citizen should be able to accept the truth with the general aims of the state.

The question arises whether government may use religious discourse raises disputes in many countries. A second dimension of the connection between state and religion concerns the state's tasks as far as religious matters are concerned.

### **SOCIETY:**

State and religion meet in society within the social and cultural domain. Throughout the last two centuries, the part played by religious organizations in these areas has declined, however, religion is one of the essential institutions of any society. It is a universal system which is generally found in every society. Religions are often understood as a social organisation during which there's common faith, worship, rituals, customs and traditions. India could also be a land of spiritual diversities. All the most religions of the earth, viz.: Hinduism, Christianity, Islam, Sikkim, Buddhism and Jainism are found in India. The religious institution has its own impact on Indian society which can be summarised as follows:

### **SOLIDARITY:**

People belonging to a selected religion closely identify themselves with the religious group.

### **ETHICAL VALUES:**

Religion helps within the event of ethical values, eg.: taking care of the parents , protection of kids , helping the poor and disabled , honesty are certain values, preached by religion.

### **SOCIAL CONTROL:**

Religion acts as an efficient tool of act. By imbibing certain ethical values, religion enables to manage the conduct of individuals.

### **BASIS OF LAW:**

Over a period of time religious customs and traditions gain the force of law e.g.: according to morality, maintenance of wife and kids is that the bounden duty of the husband. So on upholding this principle, provisions for awarding maintenance is made as a rule out Hindu Marriage Act and Sec 125 CRPC.

Religion, generally, is seen as a relief for several or even all social problems, advocacy of a strong bond between state and religion in every domain goes without saying.

In *Chitralekha vs. State of Mysore*<sup>5</sup>, Justice Subba Rao explained that though it had been hospitable to the government to require, among other things, caste also comes into consideration, it had been optional on its part to try to do so, and therefore the order of the government wouldn't be bad if it could "ascertain the backwardness of a gaggle of persons on the idea of other relevant criteria independently of the caste".

In *State of A.P. vs. P. Sagari*<sup>6</sup>, it had been held that it had not been enough for the government to say that determination of backward classes was made after fullest possible investigation and by taking into consideration all necessary criteria; the courts are entitled to demand that the whole material be placed before them. But, once following the relevant criteria, it's been ascertained who constituted the backward classes of individuals, it might not be unconstitutional to explain the backward classes with regard to their castes. Though it might not be permissible to divide the backward class people into more and fewer backward, it's possible to distribute the reserved seats amongst the backward classes consistent with their population.

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<sup>5</sup>1964 AIR 1823, 1964 SCR (6) 368

<sup>6</sup>1968 AIR 1379, 1968 SCR (3) 565

## SUGGESTIONS/RECOMMENDATIONS

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- 1) If we might wish to consolidate democracy give firm foundations thereto and make its working successful, it is necessary that the people should keep religion apart from politics. It's wrong to think that with the help of laws it's possible to divorce religion from politics. Till the attitude of the people is modified, and till they rise above the petty considerations it's impossible to remain religion and politics apart. By keeping them independent of each other, we'll retain democratic set-up.
- 2) Religion is one of the important factors influencing the practices and policies of organisation.
- 3) Free and fair timely elections of all spheres of political authority.
- 4) Transparency and accountability of all religious institutions of the state to citizens.
- 5) Efficient and effective delivery of socio-economic public services.
- 6) Rule of law, where legal rights are clear and understood, and legal compliance and enforcements of those rights is time-bound and swift.
- 7) Needs and interests of hitherto excluded minority religious sects of society are privileged and included, with dignity.
- 8) Fostering respect for differing faiths and beliefs, including people with no particular faith
- 9) Helping to reduce corruption by allowing faith-based ethics to be voiced
- 10) Engendering peace by defusing religious tensions thereby reducing religion-related violence and conflict
- 11) Encouraging broader freedoms
- 12) Developing the economy as religious groups play a measurable role within the human and social development of countries
- 13) Overcoming the over-regulation associated with such things as coercive blasphemy laws
- 14) Multiplying trust among employees whose faith and beliefs are respected.

## CONCLUSION

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Scholars have come to acknowledge the contemporary diversity among religions in today's society. Just what's a faith cannot be determined by the appliance of concepts drawn from any particular tradition. India could also be a singular State, believing in secularism and yet preserving its spirituality through constitutional provisions, legislation, state policy and judicial pronouncements. Maintaining a rational balance between secularity and religiosity, accommodating religious sensitivities of the people to a cheap extent, avoiding religion-based discrimination among the citizens as far as possible, and endeavouring to put them on a par regardless of religious affiliation, are the essential features of religion-state relations in India. God and Caesar both have a neighbourhood under the constitutional and legal acknowledged of the country, but the scope of "what belongs to God" remains wider in India than in most other professedly secular societies. Hence, it's said that India is understood for its diversity within the region, languages, food, clothing, festival, states, and in everything that represent the planet, country and its people. It's a secular state having different religion and languages and features a unique culture that binds us all at once hence, it states that India may be a greater unity in diversity.