

enterprises has been divested in favour of private persons and many industries and services which were reserved for the government sector have been thrown open for private enterprise. This is in keeping with the worldwide trend after the collapse of socialism in the USSR, and East European countries. But the constitutional obligation to pay compensation to the private owner for State acquisition has been taken away by repealing Article 31, by the Constitution (44th Amendment) Act, 1978, as will be further explained under chapter 8, *post*.

Unity amongst the inhabitants of this vast sub-continent, torn asunder by a multitude of problems and fissiparous forces, was the first requisite for maintaining the independence of the country as well as to make the experiment of democracy successful. The ideal of unity has been buttressed by adding the words "and integrity" of the Nation, in the Preamble, by the Constitution (42nd Amendment) Act, 1976. But neither the integration of the people nor a democratic political system could be ensured without infusing a spirit of brotherhood amongst the heterogeneous population, belonging to different races, religions and cultures.<sup>24</sup>

The "Fraternity" cherished by the framers of the Constitution will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of the unity of India.

Democracy would indeed be hollow if it fails to generate this spirit of brotherhood amongst all sections of the people — a feeling that they are all children of the same soil, the same Motherland. It becomes all the more essential in a country like India, composed of so many races, religions, languages and cultures.

Article 1 of the Declaration of Human Rights (1948), adopted by the United Nations, says:

All human beings are born free and equal in *dignity* and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

It is this spirit of brotherhood that the Preamble of *our* Constitution reflects.<sup>25</sup>

The unity and fraternity of the people of India, professing numerous Faiths, has been sought to be achieved by enshrining the ideal of a "Secular State", which means that the State protects all religions equally and does not itself uphold any religion as the State religion. The question of Secularism is not one of sentiments, but one of law. The secular objective of the State has been specifically expressed by inserting the word "secular" in the Preamble by the Constitution (42nd Amendment) Act, 1976. The original framers of the Constitution adopted Articles 25, 26 and 27 to further secularism. Secularism was very much embedded in their constitutional philosophy. The 42nd Amendment, which formally inserted secularism into the Preamble, merely made explicit what was already implicit.<sup>25A</sup> Secularism is a part of the basic structure of the Constitution. There is no provision in the Constitution making any religion the "established Church" as some other

Constitutions do. On the other hand, the liberty of "belief, faith and worship" promised in the Preamble is implemented by incorporating the fundamental rights of all citizens relating to "freedom of religion" in Articles 25–28, which guarantee to each individual freedom to profess, practise and propagate religion, assure strict impartiality on the part of the State and its institutions towards all religions (see chapter 8, *post*).

**Need for Unity and Integrity of the Nation.**

**Fraternity.**

**A Secular State, guaranteeing Freedom of Religion to all.**

**42nd Amendment, 1976.**