SECULARISM IN INDIA

The Indian constitution was amended in 1975 to include the term 'secularism' in the official description of the state.[1] In a deeply religious society, it is not the 'sacred' that is problematic, but the meaning of the 'secular.' Accepting the ideal of a secular state, Indians retain the right to interpret the term 'secular' as they see fit—from a state that knows no religion to a state that recognizes all religions equally to a state that while predominantly Hindu, guarantees the rights of other religious groups. This paper will begin with an account of the relevant constitutional provisions, and then read them through a variety of lenses—'traditional' and contemporary. In so doing, the paper will address those issues (for example, rights, federalism and the use of force) that the democratic context of this debate generates.[2]

SECULARISM IN THE INDIAN CONSTITUTION

The circumstances of the transfer of power in 1947 to the new government of independent India determined the direction constitution-makers would be predisposed toward in regard to the relationship between religion and the state.[3] First, much of the political leadership that took over the reins of state was educated in the metropolis—England—at the turn of the century and had been socialized in the liberal and social democratic ideas of that time. Nehru, who was the dominant figure in the early period after the deaths of M.K.Gandhi and Vallabhbhai Patel, wanted free India to attain to its destiny as a modern power befitting its history and size, unencumbered by superstition and blind faith and unfettered by all things irrational—including religion. Although the freedom movement was made up of many ideological strands, from the socialists to those who would revive the past and its glories, from those who used terror to the satyagrahis, it was the Congress with its catholic platform and its commitment under Gandhi to non-violence to which power was transferred. The ideological predisposition was to favor a "separation of Church and State."

This modernist inclination was reinforced by Partition. The creation of Pakistan out of Muslim majority-provinces in India was premised on the existence in the sub-continent of two nations, incompatible with each other culturally and politically. The Congress did not accept this theory and therefore, the India that was constituted under their leadership must reflect such a rejection, not identifying with any particular religious group. Further, in the aftermath of the riots that accompanied the

Partition, there was great anxiety that giving any cause for communal discontent against the state would leave room for another blood-bath. What Partition did was to underscore the idea that religion was a primitive and dangerous beast that must be leashed for the social good.

The resulting constitution of India established a sovereign democratic republic in which it was resolved to "secure to all its citizens: ... LIBERTY of thought, expression, belief, faith and worship,"[4] and although this republic is self-consciously devoid of any identification with any religious group, the constitution shows that not for one moment did its authors forget the labyrinthine diversity of the society for which they were meant to speak. The relationship between the Indian state and its citizens, as individuals and as members of groups, is defined in the chapters on Fundamental Rights, Directive Principles of State Policy and Fundamental Duties.[5]

Indian citizens are guaranteed the right to equality before the law. The Indian state is further enjoined not to discriminate against any citizen "on grounds only of religion, race, caste, sex, place of birth or any of them."[6] Equality of opportunity is guaranteed in public employment as well, except in the circumstances described by Article 16(5), which provides that officials serving in connection with the affairs of religious institutions or organization shall be individuals who practice that religion. Article 17 abolishes the practice of "Untouchability" and makes such practice punishable by law.

Freedom of conscience and religion, to which the Preamble alludes, is secured by Article 25(1) to all citizens. The State is however, permitted to regulate secular activities associated with religious practice, such as levying taxes associated with property ownership. What constitute activities that are secular or that are on-essential to religious tenet is decided on the merits of each case. The really interesting provision here is 25(2)(b), which provides for, "social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus." The explanation that follows states that, "...the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religions and the reference to Hindu religious institutions shall be construed accordingly."[7] Apart from this, all religious sects have the right to establish and maintain religious and charitable institutions, to manage their own affairs in religious matters, to own and acquire movable and immovable property and to administer such property in accordance with law.[8] The state is

prohibited from levying taxes for the promotion of any religion and citizens are free to pay to not to pay religious levies of any sort.

In 1863, the Religious Endowments Act was passed with the view of reducing the government's authority to intervene in the management of religious trusts.[9] Under this law, the affairs of religious endowments may be managed by committees set up for the purpose, while the civil courts of the state may intervene to arbitrate disputes. Section 22 of this act prohibits the government or any of its agents from taking charge of or managing the property of religious trusts. In the constitution, both the central and state legislatures are empowered to make laws regarding these trusts and endowments. The Concurrent List (in the Seventh Schedule of the Indian constitution) authorizes both center and states to make laws on "Trusts and trustees" (Item 10, List III) and "Charities and charitable institutions, charitable and religious endowments and religious institutions" (Item 28, List III). In the case of items on the Concurrent List, both central and state governments can legislate on these subjects, but in the event of a conflict, the central law prevails. Article 290A of the constitution, which was added in 1956, provides that the state of Kerala's Consolidated Fund shall pay a fixed sum annually to the Travancore Devaswom Fund to maintain temples and shrines transferred from the State of Travancore-Cochin when it acceded.

The Indian state subsidizes school education on a large scale, and so there are restrictions on religious instruction at state-aided schools. The constitution also affirms the right of minorities to establish their own cultural and educational institutions and these are eligible for funding from the state. Schools wholly funded by the state cannot impart any religious instruction. However, schools established by a religious group which are partly aided by the state may offer religious instruction without making it compulsory. No one may be refused admission to any state-aided educational institution, solely on religious, race, caste, linguistic or similar grounds.

Although in religious matters, citizens may follow their conscience, the state is enjoined in the constitution to "endeavour to secure for the citizens a uniform civil code throughout the territory of India."[10] The constitution also contains instructions for the citizens of India, who must make it their duty to promote communal harmony and a fraternal spirit, "transcending religious, linguistic and regional or

sectional diversities..."[11] Further, the next clause asks citizens to renounce those practices that are derogatory to women.

To summarize, Indian citizens are free to profess, practice and propagate their religious beliefs, and irrespective of those beliefs, are equal before the law and have equal access to government employment. Religious sects may establish educational institutions and seek state assistance, but if they do that they must admit anyone who seeks to be admitted and not compel them to undertake religious instruction. Educational institutions run wholly by the state cannot impart religious instruction. India is thus constituted as a state which neither interferes nor prevents citizens from having one or another religious affiliation.

This "hands-off" state is entrusted with a task that completely contradicts this characteristic that is so carefully nurtured by all the other provisions. It is charged with providing for social welfare, and also with "the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus." As the constitutional explanation tells us: "Hindu" must be construed to include Jainas, Buddhists and Sikhs. Further, regardless of its obvious merits, the ban on Untouchability constitutes an intervention in "Hindu" religious practice and does the enforced public access to temples. Finally, even as the citizenry are asked to "value and preserve the rich heritage of our composite culture," there is a provision in the constitution allowing state monies to be paid for the upkeep of the temples and shrines in the erstwhile Travancore region. This raises important questions about the relationship between the state and Hindu religious practice. While the state's authority to legislate or take action on matters relating to other religious groups is delimited by more general laws pertaining equally to non-religious groups, such as laws on the regulation of accounts and trusts, in the case of Hinduism the state is explicitly charged with intervening to alter practices undertaken in the name of religion. As we will see later in the paper, this ambiguity is an important part of the contemporary debates on the issue of 'secularism' in India. D.E. Smith attributes the need for this intervention to the nature of Hindu society. He writes:

"The chief reason for such state interference is that Hinduism lacks the

kind of ecclesiastical organization necessary to set its own house in order; the

tremendous urge for effective social and religious reform that characterizes present-day India can only be satisfied by state action."[12]

The question however, is whether a secular state might act to reform any religion and what part of that religion's thought and practices might it seek to reform.[13]

Following the 1973 Keshavananda Bharati judgment, the idea has been evolving that there is an ideological core to the constitution that may not be abrogated or amended—a theory of the basic structure of the constitution. A series of judgments have suggested different lists of core elements. One of these was by Justice Y.V.Chandrachud in the Indira Nehru Gandhi vs. Raj Narain (1975) case[14]:

1. India's status as a sovereign, democratic republic.

2. Equality of status and opportunity.

3. Secularism and the freedom of conscience.

4. The rule of law.

Following a spate of constitutional judgments, the Constitutional (Forty-Second) Amendment passed in 1975 instituted sweeping changes, only a few of which were subsequently repealed. One that remains is the addition to the Preamble of the words 'secular' and 'socialist.' Our interest lies in the former. Prior to 1975, the only use of the word 'secular' in the constitution was in a reference to the secular (as opposed to ecclesiastical or religious) activities of groups. Thus secularism, although a core ideal, was an ideal that was not defined.

So, if secularism is (part of) the core, then what does it mean within and outside of the constitution?

Indians understand this constitutional principle in two ways. The first is 'dharma nirapekshata' and the second is 'sarva dharma samabhaava.' The state that is 'dharma nirapeksha' is neutral towards all religious groups. In its studied avoidance of identification, the Indian state seems to simulate this attribute. The state to whom 'sarva dharma samabhaava' is a state to which all religions are the same. In its equality and cultural rights provisions, the Indian state resembles this ideal. Both are different from the European ideal of secularism which arose as a political expression of the separation of the Church and State. Following the Reformation and the rise of absolute monarchies, the state asserted the priority of its

claim to political authority. The authority of the Church was confined primarily to matters spiritual. It is hard to translate this to the Indian cultural context, partly because of India's diversity and partly because there is no single ecclesiastical authority from which secular authority may be wrested. The state is left negotiating an uncertain space between these three ideals, as well as its own historical and intellectual antecedents.

RELIGION AND THE POLITY—A BRIEF HISTORICAL REVIEW

The key to reading the relationship between the polity and religion in sub-continental history is the word *dharma*, used in both Indian interpretations of secularism. What does *dharma* mean? According to A.L. Basham, "Derived from the Sanskrit root *dhr*—to bear, to support, to maintain—to word *dharma* has the literal meaning of that which is established, that is, law, duty, or custom."[15] Hard to translate exactly in English, it may be said to refer to all matters of law and custom, preferred values and behaviors and to the ethical standards that govern the public sphere.

Statecraft as *rajadharma* is a means whereby the social (*dharmik*) order is upheld.[16] In most periods of Indian history, the maintenance of social order, rather than a territorially contained state, has been the primary purpose of political organization. With marginal variations, this order was understood to be the *varnashramadharma*, whereby individuals acted according to their castes and their life-stages. As long as individuals did not fail in the performance of these duties, order would prevail and the survival of society (and its polity) was ensured. While the *varnashramadharma* was basically a form of social organization, the early literature of India, secular and religious, make enough mention of it that it is implicitly understood to have some religious sanction. So the purpose of political organization was related to the maintenance of an order sanctioned by one, if dominant, set of 'religious' beliefs.

Apart from the secular texts and commentaries on statecraft, the two great Indian epics (mythological to the scholarly mind, but real to most Indians) are treasure-troves of ideas on politics. In the numerous stories of patronage and protection therein, we find examples of how the ruler related to the religious and the ritualistic. In both the Sanskrit epics, the *Ramayana* and the *Mahabharata*, there are innumerable stories of rulers and their sons marching into forests and frontier regions to protect ascetics and their hermitage against threats from 'others,' portrayed as demons and monsters. Further, the teachers

of princes who also appear to have the status of counselors and ministers to the ruler, sometimes hold positions in the army and who also perform critical rituals for the ruling family, are never less than sages—a status that is distinctly religious. Finally, the kings who are praised in the epics, in all of their versions, are those who 'uphold' *dharma*. Sometimes *dharma* means truth—at any cost, sometimes it means performing one's duty, sometimes it means playing by the rules, no matter what those rules are. The performance of ritual and the upholding of this *dharma* formed the link between religion and politics.

Indeed, noted Indologist Ananda Coomaraswamy makes a case for regarding as the central political relationship in the Indian tradition, that between those who write, teach and interpret *dharma* (*brahmins*) and those who enforce and guard it (*kshatriyas*).[17] Coomaraswamy and most other writers on Indian political thought argue that the king's power is legitimized through his cooperation with higher offices. Further, when the king becomes over-assertive then he leaves himself open to overthrow and the polity open to chaos and destruction. The brahmin, acting in the name of dharma, is permitted, even expected, to do what is necessary to rid the polity of the king who does not uphold *dharma*, and again, in the epics and other Indian stories, we have several instances of what in modern times we would read as religious interference in the secular realm. Thus, if we were to equate the brahmin and the kshatriya respectively with the 'sacred' and the 'secular' elements in modern politics, then we would say that in its early history, these elements stood in a symbiotic relationship to each other.

The first imperial unification of a large part of the Indian sub-continent, underpinned by force *and by administration,* occurred under the Maurya kings (c.324-249 BC). Each of them followed a different faith and the most prominent, Asoka, adapted his chosen path or personal *dharma*, to the exigencies of state-craft.[18] Romila Thapar articulates his definition of dhamma, the Pali version of this noun, thus:

> "The *Dhamma* of Asoka emerges as a way of life incorporating a number
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> of ideals and practices... the practice of virtue can be made common to all men. The
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> *Dhamma* embodying such behaviour transcends all barriers of sectarian belief... In the
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> propagation of his *Dhamma* Asoka was attempting to reform the narrow attitude of
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> religious teaching, to protect the weak against the strong, and to promote throughout the

empire a consciousness of social behaviour so broad in its scope, that no cultural group could object to it."[19]

Although Asoka's adoption of Dhamma as a policy followed his own conversion to Buddhism, we know from his edicts on pillars and rocks that he advocated not merely religious tolerance but also equal respect for the teachings and teachers of all sects. Asoka is an important figure in India's long history because he represents one ideal of a good ruler who ruled at a time when India was already becoming ethnically and religiously diverse.[20]

The centuries that followed saw the full flowering of Brahminical Hinduism and several states whose rulers were Hindu (although they would have identified their faith more narrowly) but whose politics did not specifically shun other practices. Among the better-known kings around the 7th century (CE) was Harsha[21], whose reign is amply chronicled by a court writer, Banabhatta, and by Hsuien Tsang, a Chinese Buddhist monk who travelled the sub-continent. We have descriptions of his generous gift-giving assemblies where the learned, the holy and the poor of all communities were given money, land, rice and other gifts. The point is that these gifts and such patronage in general came out of the state treasury but served all groups equally.

The founders of the Delhi Sultanate (1206-1526) brought with them the political traditions of Central and West Asia.[22] It was the custom of these regions that the *khutba* (the Friday sermon at the mosque) was read in the name of the Caliph who was the head of the Islamic community at large, holding secular and some spiritual power. This signified that the local ruler was in fact a deputy of the Caliph. Rulers who wished to assert their sovereignty would have the *khutba* read in their names. In the Delhi Sultanate polity, the degree of subordination of the ruler to the decree of the Islamic clergy, the *ulema*, and the whims of the aristocracy varied widely from the independence of a Balban, Allauddin Khilji or Muhammed bin Tughlaq to the relative weakness of a Razia Sultan, Ferozshah Tughlaq or Ibrahim Lodi.[23] In principle, all the rulers were subordinate to the Caliph but in fact, they asserted their independence to the extent that they were able. Subordinate as they were to the Caliph, they were under great pressure to implement the political ideas and doctrines of Islam in the land of non-believers that they had conquered. This included special taxes and in the case of some rulers, iconoclasm.

The identification of the rulers and their rule with one religion must be seen in light of the fact that they were a minority and it was a minority religion that received official patronage and protection. Accustomed to invasion and immigration, the local elite learned how to carve a place for itself in the new order, learning the new languages and the ways of the new rulers. This period saw the rise of a new synthesis between the cultures of the settlers from Central and West Asia, and the culture of the Indian subcontinent. This is most visible in the arts and literature of the period, including the devotional literature in Indian languages and the new camp language, Urdu. Bhakti and Sufi teachers and poets learned from each without sectarian barriers and forged the basis of contemporary Indian culture.

The Sultans of Delhi were not the only Muslim rulers of India in this period. Their repeated campaigns in the Deccan peninsula had seen the rise of smaller kingdoms which were ruled also by Afghan and Turkish settlers—the rulers of the Bahamani and the Deccan Sultanates.[24] In this setting was born the kingdom of Vijayanagara,[25] whose character was defiantly Hindu. Like the Maurya empire before it, the story of the founding of this kingdom is that a Brahmin teacher groomed and advised his protégés to establish themselves at Hampi. Vijayanagara flourished as a self-consciously Hindu island in a Muslim sea. Nevertheless, accounts of inter-state relations in the Deccan in this period suggest that in Vijayanagara's relations with other states, realpolitik rather than religion determined the relation.

The Mughals followed the Delhi Sultans and under them the synthesis of Indic and Turko-Afghan (as well as Hindu and Muslim) cultures reached its apogee. The Caliph was nominally the sovereign and the Shariat, the law of the state. While the first two Mughal emperors did not depart much from the Delhi Sultans in the relationship that obtained in theory between the state and Islamic law, things changed under Akbar.[26] Akbar's state has been described as secular,[27] but in fact, it is not secular in the Western sense in that the state was not separated from religion. Quite the contrary—Akbar sought to fuse ideas and practices from all the religions he encountered and to replace the awkward equation of Islam and the state with an ideology or religion, even, designed expressly to glorify the emperor and in that fashion, the state. *Sulh-i-kul* was a policy of tolerance for all religions. Akbar's heterodoxy lost him the support of the conservative *ulema*. The new Sufi sects were growing in power and popularity, however and Akbar and his successors drew their support from that source instead. His son, Jehangir's reign

witnessed incidents of religious persecution. Aurangzeb, the last of the great Mughals, was a conservative Sunni and reversed the syncretist and catholic atmosphere of the court. Under his dispensation, the old taxes were re-imposed on non-Muslims and the state moved closer to the old orthodoxy that it had seen prior to Akbar.

The Mughal Empire under Aurangzeb was both at its pinnacle and also beleaguered by regional rebellions. The most significant of these in the period of Aurangzeb's life was that by the Marathas under Shivaji. Shivaji went on to establish an independent state and while he has now been appropriated by those who would treat India as a Hindu state, his kingdom continued the sub-continental tradition of treating all religions equally.[28]

Thus we see that historically, politics has always borne some relation to religion in the subcontinent. In a manner of speaking, the protection that it has accorded religiously sanctioned or defined social orders has been the same in every polity or political tradition discussed above. The difference has been in two things: first, whether the polity protects and patronizes all religions and sects equally, and second, what the degree of diversity was in society. Arguably, in the latter case, the greater the diversity—not just as numbers of different sects, but how much they differ from each other—the more inevitable that the polity would favour one group over others. It was easier for those kings who had to equally patronize the many sects of Hinduism, Buddhism and Jainism alone than it has been thereafter. This is partly because they are products of the same intellectual evolutionary process. The basis of the polity itself has been one or the other ethical or social order. In the next section, we will see how ideas about this relationship have changed in the last two centuries.

COLONIAL AND CONTEMPORARY VIEWS—THE PLACE OF RELIGION IN THE POLITY

The colonial state was the first Indian state to keep its distance from matters religious, in the sense that it was not identified with any religion. However, the colonial state, acting under the direction of Governors-General like Bentinck, intervened in religious and social practice in a way that no political dispensation had ever done in the past. The enterprise of reforming Hindu religious practice (along with that of imparting Western education) was the first act by a state of intervention in the social order. Traditionally, the state had remained subordinate to society and the colonial state reversed this pattern of

domination. The abolition of Sati and Thuggee, the influx of missionaries and the introduction of legislation and policy that undermined or rejected traditional Indian practices (like Dalhousie's Doctrine of Lapse, which derecognized the practice of adoption by childless kings) are some examples of this interventionist state. Hinduism, as the exotic other to their Protestant Christianity, attracted the most 'reform' by its new secular rulers.

Indians from all sects responded to this reform program in a variety of ways, common to most of which was some examination of their own identity as Indians.

Two categories of movements made up the anti-colonial experience of Indians.[29] The first category of movements adopted elements from western religions in their reforming zeal—rejection of idolatry (Brahmo Samaj), selection of one or another book as the fundamental text (Arya Samaj), establishment of clerical orders (Ramakrishna Mission)—and co-opted ideas from the west with regard to the status of women and the caste system. It should be noted that organizations like the Arya Samaj also had a strong revivalist strain in their doctrine and that this actually built on what has been characterized as 'borrowing'. The second category of movements began by petitioning the colonial government for greater inclusion of Indians in their administration and ended up by asking for an independent nation-state. The rhetoric and practice of South Asian nationalism[30] showed the influence of the liberal ideas of Mill and Bentham in the petitions for more representation and for greater involvement by the government in public welfare, the dialectical materialism of Marx and Engels in the economic critiques of colonialism, the ideas of Thoreau and Ruskin in Gandhi's techniques of resistance and the nationalism that had swept through Europe in the 19th century in the growing demand for self-determination. European domination was ultimately, hoist by its own petard!

The contemporary debate in India about the meaning of the term 'secular' is to be seen in light of this historical and intellectual background.[31] Today, the debate features three voices: the Hindutvavadins,[32] the 'left-liberal' response to Hindutva and those who contest the terms of the debate.

Hindutva is an idea that is most accurately translated as Hindu-ness.[33] This is a quality that those who are not Hindu by faith may possess, and indeed do, according to the ideologues of this now prominent school, as long as their lifestyle and culture is Hindu. The argument is that there is an innately

'Hindu' quality to the practice of any religion once it makes its home in the Indian sub-continent. Therefore, it is to be expected that non-Hindus, as much as Hindus, should regard India as their *"pitr-bhoomi"* (fatherland) and their *"punya-bhoomi"* (holy land). When Hindutva-vadins call India a Hindu nation, their ideology states that the term "Hindu" is to be understood as the attribute of "Hindu-ness" and not "Hinduism," to put it awkwardly. In effect, it has been understood, by their followers as well as their detractors, to mean that as Hindus are the majority, and as Pakistan is a Muslim nation, so should India come right out and identify as a Hindu one.

The political platform of Hindutva has multiple planks—minority appeasement, majority assertion and nationalism, are three rubrics under which they may be classed. The campaign against special status for Kashmir and separate Personal Laws for religious minority groups fall under the rubric of minority appeasement. The argument is that the Indian state has been 'pandering to' the minority communities, most objectionably to Muslims, and that it therefore favours them. Thus, the claim to secularism by the Indian state is a cover for its partiality to the minorities. The majority which has been enslaved and marginalized since the first arrival of Muslim raiders in 1017 CE, must now reclaim its temples and assert its right to dominance within the Indian polity. This rhetoric of a "thousand years of slavery" and the generation of a "minority complex" among the majority community. "The Muslims have four wives and do not plan small families, and therefore, their population will overtake ours," often heard among middle class supporters, is an example of this. The secularism of the Indian state is the weak-kneed response of a Hindu élite which has forgotten how to assert itself. Secularism is a sign of weakness. True secularism lies in the brand of nationalism that the Hindutva-vadins propagate. It is a nationalism that is openly identified with the majority community and its hegemonic culture and it is a strident nationalism vis-à-vis the rest of the world. It is also a nationalism with some irredentist elements, particularly with regard to Pakistan. The Bharatiya Janata Party, which headed the government that decided to conduct tests of India's nuclear capabilities, is the political front of the Hindutva-vadins.

All that remains of Nehru's secular, socialist, modernist legacy in the discussions of secularism is the opposition of a fragmented and politically disparate array of 'secularists'—known to their Hindutvavadin antagonists as "pseudo-secularists." (Note that both schools appear to place a

normative value on being secular.) Although the founders of the Indian republic were largely of this school, its present proponents have failed them on a number of counts. Notwithstanding their early "incumbent" advantage with a favourable constitution, they allowed the terms of the debate on secularism to be set by the Hindutva-vadins. Through the decades, they have reacted to the Hindutva-vadi organizations, be they the Rashtriya Swayamsevak Sangh (National Volunteer Workers Association) or RSS, the Jana Sangh or the Bharatiya Janata Party (BJP).

Scholars of this description, most notably a collection of historians from Delhi, have marshaled evidence to counter the claims made by communal groups, especially the Hindutva-vadins.[34] Political parties that have used communities as 'voting blocs' are held responsible for the communal political climate. The Congress, which is even today the largest of India's secular/ "secular"[35] parties, in its eagerness as ruling party to win and retain the electoral support of minority groups, has supported the most conservative elements of these groups without regard to internal changes and dissension therein. In the Shahbano case in the 1980's, the government stepped in on the side of conservative readings of Islamic divorce law that place women at a disadvantage, in the face of both a judicial pronouncement otherwise and disregarding more liberal opinion within a diverse community of Muslims. When the government acts in this fashion, it essentializes the minority community in ways that violate their rights. This leads some writers to argue that the guarantee of minority rights must be predicated on the dominant group within the minority promising the same within. It is also pointed out that the centrist and leftist parties have not taken the trouble to match the mobilization efforts or the public education efforts of the Hindutva-vadins. The result is that the constitutional idea of secularism is not a negotiated one, nor one that appears open to negotiation, only interpretation.[36] Rather than act on this by framing the issue in positive terms, some activists have reacted by dismissing, banning, opposing, critiquing, lamenting and disputing the arguments raised by their "other." They have failed to initiate any of the discussion on their own. Further, giving credence to the criticism of the Hindutva-vadins as well as those who are dissenters from the debate itself, the left-liberal school has equated religion with the use of religion as politics, and directed a good part of its opposition to religion, and Hinduism in particular. Flawed as Hinduism may be, this is not a sound political stratagem in a country which, Hindu, Muslim, Christian or otherwise, is

populated largely by devout citizens! Opposing Hindutva by condemning caste, idol worship, superstition, polytheism or the abuses of religious leaders, is like combating AIDS with the Green Revolution—both affect public health in their own way, but the one does not provide the cure for the other. It appears as though members of this school have completely lost touch with the reality of the society that they live in, a fact that their opponents have used skilfully.

Both the Hindutva-vadins and the left-liberal school have this in common—they are modernizers who view the state as an important instrument of society. They differ on the role of religion in this modernist vision. For the Hindutva-vadins, religion is a tool for political mobilization. For the left-liberal school, it is an unspeakable condition of the human mind that must be terminated in the interests of modernity. For both sides, the state is an important agent in the modernization process. For the Hindutva-vadins, it is the vehicle for the realization of mass aspirations. For the left-liberal school, it is the symbol of all that is scientific.

Observing both sides of this debate, some scholars have begun to dispute its very terms. Ashis Nandy is the best-known interlocutor of this position.[37] Nandy is an influential voice in the intellectual community in South Asia. He argues that in these times, religion is faith and religion is ideology. The whole debate about secularism arises from the failure to understand that everyday tolerance has arisen from the practice of religion as faith. From Nandy's work, we understand that it is the association of the state with all that is secular and scientific and the relegation of faith to the private realm, by what I characterize as the left-liberal school and he calls the secularists, that leaves the state vulnerable to the use of religion as ideology. He associates the rise of religious violence with the consequences of the modernization process. Nandy's critique of the debate over secularism is thus also a critique of modernity and its trappings, including the state. Thus:

> "...it is from non-modern India, from the traditions and principles of
>
> religious tolerance encoded in the everyday life associated with the different faiths of
>
> India, that one will have to seek clues to the renewal of Indian political culture...
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> The moral of the story is this: the time has come for us to recognize that
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> instead of trying to build religious tolerance on the good faith or conscience of a small

group of de-ethnicized, middle-class politicians, bureaucrats and intellectuals, a far more serious venture would be to explore the philosophy, the symbolism and the theology of tolerance in the various faiths of the citizens and hope that the state systems of South Asia may learn something about tolerance from everyday Hinduism, Islam, Buddhism, and/or Sikhism, rather than wish that ordinary Hindus, Muslims, Buddhists and Sikhs will learn tolerance from the various fashionable secular theories of statecraft."[38]

SECULARISM AND INDIAN DEMOCRACY

What is the relationship between the debate over the meaning of secularism and democracy in India? 'Secularism' is not merely a component of the basic structure of the Indian constitution, for Indians of almost any political predisposition, it is a predicate of Indian identity. This is especially so because the equation of Indian identity with secularism provides to Indians a formidable other in the non-secular Pakistani state. Therefore, it is terribly important to Indians that India be seen as a secular state. The problem, as we have seen, arises because it is hard to see what that actually entails. On the other hand, the negotiations over the meaning of secularism and its proper consequences for the political system cannot but impinge on the workings of democracy. Five issues illustrate this.

The Constitution of India directs the state to create a uniform civil code, but permits the continued operation of religious codes of personal law with regard to members of minority communities, as a mark of religious freedom. The government has, however, undertaken the reform of Hindu personal law. This is construed as the imposition upon Hindus of a civil code while other communities remain exempt. The consideration of these questions is complicated by those pertaining to the rights of minority groups within each community. If all communities are permitted to follow their own personal laws, then who is to protect minorities within each community, including women? On the other hand, if a uniform civil code is to come into operation, what is the degree of consensus that is required to give it legitimacy? Who should represent the various communities in the framing of such a law and how might it reflect and guarantee each group's beliefs and identity? All questions that a democracy must consider.

Under the Indian constitution, policing is a subject over which the State (as in province) has jurisdiction. When riots breakout, the local police are called into break them up. A problem well-documented is that when this happens repeatedly, the police, who are after all part of the same setting, lose their detachment from the situation. They take sides in the fighting, bringing to bear upon the other group the access to violent means that they exercise on behalf of the state.[39] The group they turn on is further alienated. This raises one set of problems. If the state's enforcement agents are communalized in this fashion, then who is to protect the civil rights of the citizens against the violence of the state? Bombay, a city proud of its cosmopolitan culture and effective government, witnessed such a process through the 1980's, culminating in the police excesses of the December 1992 riots.[40]

When the local police become partisan, they become ineffective, and the next step is the deployment of paramilitary and then, military forces. In the 1992-3 riots in Bombay, the army was deployed and tanks rolled down Bombay's busiest commercial streets. This expands the scope of the communalization problem because now these forces can lose their distance from the local situation if they are deployed too often. (It also has consequences for their military effectiveness but that is not relevant to this discussion.) The other problem it creates is that of the erosion of state autonomy. Each time the local police fails and the central government has to send in forces, control over the local situation passes to the higher level of government. The State government loses autonomy and it also loses credibility. In states whose constitutions provide for centralized decision-making during crises, the increasing frequency with which local authority fails and is supplanted by military and central decision-making, erodes the democratic structure of the state. Further, the grounds for such 'security' emergencies may sometimes be rather specious, but resistance to them is weak as the frightening alternative appears to be rioting and chaos.

The election into office of a party like the Bharatiya Janata Party (BJP) raises another issue. The BJP represents the Hindutva-vadin voice in this debate, but is prevented from explicitly pursuing this part of its agenda because several of its coalition partners, whose support is essential for its continuance in office, are ideologically opposed to it. Nevertheless, as a cadre-based party, the BJP leadership has to communicate with and respond to its rank-and-file,[41] as well as the other organizations in the Sangh

Parivar, the 'family' of Hindutva-vadin organizations to which the party belongs and these appear to exert an equal and opposite pressure on the government.

Since 1997, there have been several incidents of violence against Christians—an unprecedented number since the BJP-led government came to power in 1997, according to the United Christian Forum for Human Rights.[42] One prominent incident was the brutal killing of an Australian missionary and his young son. The government's response was to set up a commission of inquiry which exonerated the Sangh Parivar, notwithstanding police and eyewitness evidence linking the organizer of the killing with the Parivar.[43] Where culpability is not an acceptable finding, who is to bell the cat? The government has no credibility in this matter. Unable to ensure justice, the government is reported to have considered measures such as declaring 1999 the Year of Christ[44] or suggesting a national debate on conversion[45] which is an evocative issue for the Sangh Parivar. Clearly, the BJP members in the government are responding to two different constituencies—their coalition partners and other outraged Indians on the one hand, and their fellow-Hindutvavadins on the other. Given that most analysts expect the era of coalition governments to last a while, we have to consider the bizarre consequences that such political arrangements, democratically arrived at, will have for debates on identity—national, communal and other. If unable to move in any particular direction, coalition governments simply blunder through, trying to appease whoever they can along the way, the stage is set for terrible confrontation and conflict.

Finally, even as "minority appeasement" is one of the grievances of the Hindutva-vadins, a recommendation by the National Commission for Minorities that Hindus should be granted minority status in six states does enjoy their support. While the Commission's rationale for this relates to protection and representation, for the Sangh Parivar, it carries the additional benefit of depriving national minorities of their special protections in states where they do in fact constitute a majority. Affirmative action questions, or "reservations" in the Indian context, are a very sensitive subject in an economy where jobs are scarce and expanding public sector (including administrative) quotas hold immense threat and promise to young people whose futures depend largely on those jobs. Minority status holds much greater incendiary potential, affecting as it does the status of entire communities that in the sub-continental context number millions. One of the hardest tasks of any democratic state, like India, is to delicately

balance the historical imperative of meaningfully expanding inclusion against all the cross-cutting, corollary, accidental exclusions that follow. In an era of coalition governments, this is even harder.

All of these are questions that scholars interested in the creation, strengthening and sustenance of democratic institutions must raise. Debates over a fundamental marker of collective identity are often acrimonious and violent, and the temptation to silence voices in the debate sometimes hard to resist. This is the lesson that Indians are learning as all appearances of consensus over the relationship between religion and the polity have frayed in the 1980's and 1990's.

SUMMARY CONCLUSION

The sweeping surveys in this paper of constitutional provisions, historical interpretations and relatively contemporary ideas on the relationship between religion and the polity, show two things. First, Indians have always considered there to be a relationship between their larger belief-systems and the principles and practice of politics—be it through the maintenance of an ethical or social order or the adherence to the Shariat or the creation of tolerant and syncretist faiths to serve the ends of the polity. Second, in contemporary times, the wide divergence of interpretations of the commonly accepted ideal of 'secularism' in fact illustrate this very history as much as they suggest the unsuitability of a 'separation of faith and state' secularism in the Indian context. Insofar as the religion-polity relationship has consequences for the democratic political system, it is important too that the meaning of 'secularism' and other key values be negotiated and discussed, and any consensus on these meanings constantly reviewed. Indians who will participate in this discussion must abandon intransigence and an unwillingness to listen to unpalatable positions, because the middle ground essential to every democratic resolution and its review can only be charted by so doing.

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[1] I would like to acknowledge with gratitude Seema Gehlaut's careful reading and critique of an earlier version of this chapter.

[2] In the last ten years, there has been a proliferation of writings on the questions of secularism and the problem of the religion-politics relationship in South Asia. Some important works have been: Sarvepalli Gopal, ed., *Anatomy of a Confrontation: The Babri Masjid-Ram Janmabhumi Issue*, Penguin, New Delhi, 1991; K.N. Panikkar, ed., *Communalism in India: History, Politics and Culture*, Manohar, Delhi, 1991; Tapan Basu, Pradip Datta, Sumit Sarkar, Tanika Sarkar, Sambuddha Sen, *Khaki Shorts and Saffron Flags*, Tracts for the Times 1, Orient Longman, Hyderabad, 1993; Gyanendra Pandey, ed., *Hindus and Others: The Question of Identity in India Today*, Viking, New Delhi, 1993; Rajeev Bhargava, ed., *Secularism and its Critics*, Oxford University Press, Delhi, 1998.

[3] Caveat: I have some reservations about the terms 'Hinduism' and 'religion' and their use in conjunction with each other. On the other hand, because these words are used to mean that large body of sometimes unrelated, sometimes contradictory, always connected beliefs and practices and the people associated with it, even in the constitution discussed here, I will conform to the same.

[4] *The Constitution of India*, Preamble.

[5] Some of the same ground is covered in D. E. Smith, "India as a Secular State," in Rajeev Bhargava, ed., *Secularism and its Critics*, Oxford University Press, Delhi, 1998 pp. 177-233.

[6] Constitution, Article 15 (1).

[7] Constitution, Article 25, Explanation II.

[8] Constitution, Article 26.

[9] I am grateful to New Delhi-based lawyer, Nitya Ramakrishnan, for the information in this paragraph.

[10] Constitution, Article 44.

[11] Constitution, Article 51(e).

[12] D.E.Smith, op. cit., pp. 213-4. This article was first published in 1963.

[13] Marc Galanter, "Secularism East and West," in Bhargava, *Secularism and its Critics*, ibid., pp. 238-9.

[14] Subhash C. Kashyap, *Our Constitution: An Introduction to India's Constitution and Constitutional Law*, National Book Trust, National Book Trust, New Delhi, 1994, pp. 256-7.

[15] A.L. Basham, *The Origins and Development of Classical Hinduism*, Oxford University Press, Oxford, 1989, pp. 102.

[16] The next few paragraphs draw on Swarna Rajagopalan, "Security in the Ancient Indian Political Tradition," unpublished paper, 1994. Important sources include U.N.Ghoshal, *A History of Indian Political Ideas*, Oxford University Press, 1959, and Charles Drekmeier, *Kingship And Community In Early India*, Stanford, 1962.

[17] Ananda K. Coomarawamy, *Spiritual Authority and Temporal Power in the Indian Theory of Government*, edited by K.N. Iengar and R.P. Coomaraswamy, Indira Gandhi National Centre for the Arts and Oxford University Press, New Delhi, 1993, pp. 1.

[18] The early reign of the third Maurya king, Asoka (c. 273-232 BCE), was marked by great violence. However, he is said to have felt great remorse upon the carnage his army wrought in Kalinga and upon his conversion to Buddhism, he followed a policy premised on Dhamma. His pillar and rock edicts speak of these events and also set out both his precepts and his practices.

[19] Romila Thapar, *Asoka and the Decline of the Mauryas*, Oxford University Press, Oxford, 1963, pp. 180-1.

[20] Independent India retains Asoka's lion capital and Dhamma Chakra as symbols of the Indian state.

[21] Harsha (606-646 CE) was the only prominent member of a dynasty (Pushpabhuti) in the Indian plains. He is familiar to us through the chronicles mentioned above and also his own literary efforts. In an era of rapid political changes, therefore, his forty-year reign and its achievements stand out.

[22] The Delhi Sultanate is the collective name given to four dynasties that successively ruled large tracts of North India between 1206 and 1526. These were the Mameluk, Khilji, Tughlaq and Lodi dynasties.

[23] Razia Sultan (1235-1240) and Balban (1246-1287) were members of the Mameluk dynasty. Although Razia Sultan was a competent ruler, she could not survive the intrigues and manipulations of her courtiers. Balban was one of those who conspired to overthrow her, and in his time, the king's pre-eminence was asserted through the introduction of court ritual and the ruthless use of espionage and force. Allauddin Khilji (1296-1316) expanded the reach of the Delhi Sultanate to the southern tip of the sub-continent, ruling his empire competently but autocratically. Muhammed bin Tughlaq (1325-51) sought to expand the empire once again, and his reign was marked by great (if unsuccessful) innovation and extreme cruelty. He tried to move the imperial capital to the Deccan and to introduce a token currency. Both were disastrous efforts. His cousin Ferozshah Tughlaq (1351-88) was an excellent civic administrator but his religious orthodoxy and paring down of the state's coercive apparatus reduced the autonomy of the state. Ibrahim Lodi (1517-26), the last Delhi Sultan, inherited a declining empire and in his time, both the Portuguese in the South and the king of Kabul (Babur, the first Mughal emperor of Delhi) in the Northwest found their way into India.

[24] The Bahamani kingdom was founded in 1347 by a disgruntled rebel from Muhammad bin Tughlaq's Deccan entourage. At its zenith, it covered a large area of Western India, and held its own with varying success until 1538. It gave way to five Sultanates in the Deccan, led by former Bahamani governors, in Bijapur, Golconda, Ahmadnagar, Bidar and Berar. Within 150 years, these states were annexed to the Mughal empire.

[25] From 1336 to 1672, the four dynasties that ruled Vijayanagara maintained an important peninsular bulwark against the expansion of the Delhi-based empires of the north. In so doing, they set up a parallel state/ inter-state system in South India.

[26] In 1526, Babur defeated the last Delhi Sultan to capture the throne of Delhi. Except for a brief interregnum when his son lost the throne to an Afghan general, the Mughals held Delhi and most of India unchallenged from then until 1707. Akbar's reign (1556-1605) is marked by territorial expansion, political consolidation, diplomatic successes, artistic accomplishment, administrative reform and intellectual experimentation. His son, Jehangir, occupied the Mughal throne from 1605 to 1627 and was succeeded by his son, Shah Jehan (1628-58) who is best known for having commissioned the Taj Mahal. His son, Aurangzeb (1658-1707) presided over the Mughal empire at the pinnacle of its power and the beginning of its decline.

[27] Satish Chandra, *Historiography, Religion and State in Medieval India*, Har-Anand Publishers, New Delhi, 1996, pp. 215.

[28] Shivaji, who campaigned against the Mughals in the mid-seventeenth century, was coronated in 1674 and died in 1680, has become an interesting figure in the debate on secularism. He is the chief protagonist in local school history texts in Maharashtra, portrayed as a champion of regional interests. However, in the texts written by the central educational board, his nationalism is questioned as it undermined the imperial unity of India under the Mughals. Finally, in recent years, he has been claimed by the Hindutvavadins and reviled by secularists for establishing what he called 'Hindavi Swaraj," although accounts of his administration suggest that it was not a Hindu state.

[29] See Chapter 1 of my dissertation, *National Integration: The State in Search of Community*, University of Illinois at Urbana-Champaign, 1998.

[30] The use in this section of "South Asia" in place of "India" takes cognizance of the fact that the people of the Indian subcontinent, while still bound by geography and some shared history, were beginning to seek different avenues of self-determination. Thus, all of the thinkers and visionaries discussed form part of the same ideological heritage of the present, although they would place themselves differently within that heritage.

[31] This debate is represented comprehensively in Rajeev Bhargava, ed, *Secularism in India*, op. cit.

[32] The "Hindu fundamentalists" or the "Hindu right-wing" of western press accounts are more accurately described as Hindutva-vadins, a term that draws on their own ideology. Arguably, you cannot have fundamentalists in a belief-system characterized by the lack of a single, unique set of commonly held beliefs and a book. Likewise, the term "Hindu right-wing" does not capture the distinctive use that this school makes of the term "Hindu." This understanding is based on writings by ideologues from this school and their own publications.

[33] This section draws on insights and notes from archival and field research conducted on the Bharatiya Janata Party and the larger ideological movement to which it belongs in June-August 1990 in New Delhi. The project also entailed a study of other major parties in the Indian political system. The author was then working with the Centre for Policy Research on a Ford Foundation project on *Problems of Governance in South Asia*. The research was directed by Dr. Bhabani Sen Gupta, who drew on it in the book he authored, *Problems of Governance in India*, Konark, Delhi, 1996, which was one of five country studies produced under its aegis.

[34] For instance, Sarvepalli Gopal, ed., *Anatomy of a Confrontation*, op. cit., and Satish Chandra, *Historiography, Religion and State in Medieval India*, Har-Anand Publications, New Delhi, 1996.

[35] The word 'secular' is so charged with meaning on either side that to use quotes or not, around it, indicate bias. I therefore, use both versions of the word, separated by a "/" to indicate that both are used and not without truth!

[36] For instance, Bipan Chandra, "Communalism and the State: Some Issues in India," in K. N. Panikkar, ed., *Communalism in India*, op. cit., pp. 132-141 and Akeel Bilgrami, "Secularism, Nationalism and Modernity," in Rajeev Bhargava, *Secularism in India*, op. cit., pp. 380-417.

[37] Ashis Nandy, "The Politics of Secularism and the Recovery of Religious Tolerance," in Veena Das, ed., *Mirrors of Violence: Communities, Riots and Survivors in South Asia*, Oxford University Press, Delhi, 1990, pp. 69-93. In recent years, Nandy's oeuvre has invited a great deal of commentary and discussion. See, for example, "Plural Worlds, Multiple Selves: Ashis Nandy and the Post-Columbian Future," *Emergences*, 7/8, 1995-96, a special issue on his work. The Bhargava volume includes other important critiques, those of T.N. Madan, Akeel Bilgrami, Partha Chatterjee and Stanley Tambiah among them.

[38] Nandy, "The Politics of Secularism," ibid., pp. 85-86.

[39] See P.R. Rajgopal's path-breaking studies on violence in India: *Communal Violence in India*, Uppal Publishing House, New Delhi, 1985, and *Social Change and Violence*, Uppal Publishing House, New Delhi, 1986.

[40] See Dileep Padgaonkar, ed., *When Bombay Burned*, UBSPD, New Delhi, 1993.

[41] At the December 1999 National Council session of the BJP, a contentious passage stating that the BJP agenda in government was no more, no less than the agenda of the National Democratic Alliance coalition that it leads, found its way into the final declaration. In other words, the BJP government will not pursue any Sangh Parivar issues that are outside this coalition agenda. A senior party official is quoted as saying that this document was binding on "every BJP worker." Neena Vyas, "Identity crisis dogs the BJP," The Hindu on indiaserver.com, 1-14-00, wysiwyg://4/http://www.the-hindu.com/stories/0114000b.htm, accessed 1/14/00.

[42] George Iype, "Concerned Vajpayee faces minority upsurge," *Rediff On The NeT*, 12-3-98, http://www.rediff.com/news/1998/dec/03vhp.htm, accessed 1/14/00.

[43] Walter Fernandes, "The Wadhwa Commission report," *The Hindu on indiaserver.com*, 9-11-1999, http://www.indiaserver.com/thehindu/1999/09/11/stories/05112523.htm, accessed 1/16/00.

[44] George Iype, "Government may declare 1999 as the Year of Christ," *Rediff On The NeT*, 12-28-98 http://www.rediff.com/news/1998/dec/28christ.htm, accessed 1/14/00.

[45] UNI, "No move to ban conversions, says Vajpayee," *Rediff On The NeT*, 1-18-99, http://www.rediff.com/news/1999/jan/18conv.htm, accessed 1/14/00.