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Neera Chandhoke

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Neera Chandhoke was formerly professor of political science at Delhi University. She was associated with the Centre for the Study of Law and Governance, JNU as Visiting Professorial Fellow during 2014 - 2016. She has written widely on the subjects of civil society, democracy, rights, secularism, and political violence. She is the author of *Democracy and Revolutionary Politics* (London: Bloomsbury Academic, 2015); *Contested Secessions: Democracy, Rights, Self-Determination and Kashmir* (Delhi: Oxford University Press, 2012); *The Conceits of Civil Society* (Delhi: Oxford University Press, 2003); *Beyond Secularism: The Rights of Religious Minorities* (Delhi: Oxford University Press, 1999), and *State and Civil Society: Explorations in Political Theory* (Delhi: Sage, 1995). Her current research interests are historical injustice and radical cosmopolitanism.

RETHINKING SECULARISM

Neera Chandhoke*

THE QUESTION

How can people who speak different languages, worship different gods, and subscribe to different conceptions of the good, live together in a degree of civility, with dignity and with mutual respect? The question has bothered political thinkers for long. We have still not found an answer. And it is not easy to find one. The proposition that a society is plural insofar as its members hold distinctive conceptions of the good and/or speak different languages is an empirical proposition. There is absolutely nothing in this statement that allows us to transit to the normative proposition that each of these conceptions of the good are of worth; deserve respect, or indeed that plurality is of value.

The proposition that plurality is a value requires another and a detailed argument. However, a brief synopsis of a larger argument may be in order here. We can think of at least three reasons why civil coexistence of different communities is of value. The first reason is instrumental. Consider that citizens who might have broken no law, or harmed anyone, can be, and have been in divided societies like

* I wish to express my profound gratitude to the faculty of the Centre for the Study of Law and Governance for granting me this fellowship, 2014-2016. This essay is part of the research carried out during the period of my Fellowship.

India, subjected to great indignity, brutality, and loss of life simply because their constitutive community has been stigmatised, typed as the enemy, or as the ‘other’ with whom there can be no truck or transaction. Every fundamental right guaranteed by international covenants and national constitutions, proves incapable of protecting citizens from harm, if the group of which they are a member is targeted. Unless a society learns to respect different ways of life, individual members will always be vulnerable to hate speech and hateful acts that maim and take away innocent lives. The right of a group to respect, and its right to dignity, is arguably an essential precondition for individual rights.¹

Two, individuals are social beings, and realise sociability through membership of different associations, from bird watching clubs, to film fan associations, to social audit groups that keep watch on acts of omission and commission of the government. However, the community we are born into, commands our allegiance in, sometimes, inexplicable ways. Some people identify strongly with the community of their birth, others identify weakly, and still others move on. But most of the time we identify with our community because it is from here that we learn the first alphabet of a language. This language enables us to make sense of ourselves, of the world, and our relationships with others. Communities are of value for their members, and should be valued for that reason.

Three, pluralism is itself of value. A monocultural society, or a society that allows only one system of belief to flourish, is bound to be, soulless and bare. Stripped of the excitement of learning new languages, of the possibility of acquaintance with new people and their worldviews, and of the opportunity to familiarise ourselves with different cuisines, literature, music, art, sculpture, and modes of conceiving the world, monochromatic societies are dull, predictable and tedious. Life in a plural society promises adventures and novel ways of understanding ourselves and our worlds. The valuation of

¹I have argued on these lines in my Neera Chandhoke, 1999, *Beyond Secularism: The Rights of Religious Minorities*, New Delhi, Oxford University Press

diversity is a good because awareness of difference expands our horizons, deepens sensibilities, cultivates empathy, and enhances solidarity. Living in plural society allows us to embark periodically on new journeys that promise discovery.

For these reasons and more, the gap between the two propositions on pluralism, one empirical and the other normative, needs to be theoretically bridged. What normative concept, other than secularism, can bridge the chasm? Today, however, secularism seems to have practically vanished from the political scene. Whatever remains of the concept is subjected to contemptuous remarks, some ribaldry, and rank dismissal. The near disappearance of secularism from political imaginations, vocabularies, and visions of how a plural and complex society can be held together is regrettable. We are in danger of misplacing something that is of great political significance. The marginalisation of secularism from the political debate also happens to be short-sighted, for the binary opposite of the concept is majoritarianism at best, and theocracy at worst. Both forms of government insistently subvert the basic precepts of democratic life, that of freedom, equality, rights, and justice. Unless we are prepared to give up on democracy, there is need to reiterate and re-inscribe the value of secularism.

At the same time, we need to recognise that the concept is in crisis because it has been subjected to overuse and invested with far too many expectations. Secularism is not robust like democracy, or justice, it is a thin and a limited concept. But in India, the fragile concept of secularism has had to shoulder the onerous task of nation building and national integration, take on the politically explosive construction of a uniform civil code, bear responsibility for the subversion and rearrangement of hierarchical and exclusionary relationships within religious communities, and even stand in for democracy. Secularism has been subjected to an overload. Unable to bear the weight of too many political projects and ambitions, it shows signs of imploding.

Yet moments of crisis need not lead to unmitigated gloom, or abandonment of the concept. Reversals in the biography of concepts,

and practices associated with them, provide an opportunity to re-examine, rethink, and clarify what the concept means, what it stands for, and what the political context of the concept is. Such moments can prove productive because they propel reconsideration of the foundational presumptions of secularism. Re-examination of, reflection on, and the reworking of secularism might rescue this beleaguered concept not only from angry and abusive opponents, but also ardent supporters and fervent advocates. As part of this rethinking we will be called upon to cut away theoretical flab, and dispense with extravagant expectations and hopes that overburden the concept of secularism.

The argument in this essay tries to put secularism in its place. For this we need to recognise that political secularism or simply secularism is not a stand-alone concept. In modern Europe, it rode to prominence on the shoulders of a social process, the secularisation of society in the wake of the Enlightenment. Now that the secularisation of society has been analysed or rather dismissed as one of the vanities of modernity, and after religion has made a spectacular comeback into the public domain, political secularism has been abandoned. It needs a new theoretical home. What other conceptual home can modern societies provide except democracy? This essay will argue that secularism is a companion concept of democracy, both an indispensable precondition for democracy and an outcome of democratic principles. For these reasons the concept should be relocated in democratic theory.

Two preliminary points may be in order. One, the term 'secular', whether it refers to the sociological process of secularisation or political secularism is not synonymous with atheism. Nor does it stand in opposition to religion. Atheists are non-believers. People who sport a secular attitude can be religious, but also hold that their conversations with God are a personal matter, that religion should not be used to discriminate between people, or be mixed up with politics. When the term 'secularism' was coined by the British free-thinker George Jacob Holyoake in 1851, he took pains to clarify that his approach was not defined in opposition to, or as a negation of religion, but as an

alternative way of understanding and dealing with worldly things. The phrasing of a non-religious approach to politics as secularism, rather than atheism, enabled the Freethinkers to enter into alliances with working class movements for social, and in particular educational reform in a rapidly industrialising society.

Two, though the terms secularisation, secular, and secularism are used interchangeably, they refer to different sorts of phenomena. Secularisation involves the privatisation of religion. The term secular can be used descriptively to capture an idea or a process that does not involve religious imaginaries. Political secularism, or simply secularism is a normative concept, it is an attribute of a democratic state. The democratic state does not distinguish between people and groups merely because they are born into 'this' or 'that' religious community. The belief that no one should be privileged or disprivileged, discriminated against or favoured for reasons that are outside their control, is part of the generic right to equality and freedom.

Given wide acceptance of the term post-secularism, this is perhaps not the best of times to recover the import of secularism, but it is also not the worst of times. Across the globe today, we live in frighteningly blinkered worlds. Time tested projects of living together have simply broken down. We see this in country after country, including my own. We seem unable to manage cultural plurality within our own societies. We have to rethink this project of living together, reach out to other sites of theory production, and see whether we can together, reflect on problems that stalk the project of equality or even its weaker form; non-discrimination, freedom, and justice. If conventional notions of secularism as a way of holding people together have broken down, as post-secularists suggest, it may be time to rethink the project in the light of other historical experiences, that of India for instance. We may need to go 'beyond secularism', not to abandon it but to recast the concept in new mould, and strengthen it. Global political theory has to expand beyond Eurocentrism to engage with other philosophies and histories, and to mediate its own admittedly Eurocentric preoccupations. Conversely,

we who live and work in the global south need to sift out what is valuable in Enlightenment philosophies of equality, freedom, and justice. We need to listen to each other. The right to equal political voice can perhaps be then realised. Epistemic inequality might then be mitigated somewhat.

SECULARISATION AND SECULARISM: THE EUROPEAN EXPERIENCE

Two philosophical moments in the history of secularism in Europe illustrate the turning of the secular wheel. In 1689, the quintessential liberal John Locke made out a case for toleration of other religions, and for the separation of the church and the state. Notably, many enduring and authoritative arguments for toleration in seventeenth century Europe arose in the middle of religious strife, the adoption of one religion as the state religion, suppression of minority religious groups, and forcible conversions. Conflict over religion engulfed most of the continent in rampant civil war and posed a direct threat to social cohesion and political stability. Locke, through his celebrated argument on toleration, struggled hard to emancipate the state from corrosive wars over religion as well as to restore civility to the body politic. The essay, which suggested that all beliefs and practices which do not threaten public order should be tolerated, was written in the second half of the seventeenth century to accomplish precisely this task.

Locke's celebrated 'Letter Concerning Toleration' written in 1667, and his *Epistola de Tolerentia*, written in 1689² revealed his concern and his involvement in English politics during the latter part of his career. Fearing that the political society of his day possessed scant resources

² John Locke, 1997, 'An Essay on Toleration', in Mark Goldie edited *Locke: Political Essays*, Cambridge Texts in the History of Political Philosophy, Cambridge, Cambridge University Press, pp 134-159. In 1666 Locke found a patron in the Earl of Shaftesbury, who headed the Whig party in Parliament. The Earl was an enthusiastic defender of toleration as well as of the limited authority of the state. Under the influence of his patron, Locke sought to apply toleration to resolve the issues of this day.

to survive the onslaught of religious wars, and even fewer resources to enable people to live in peace, Locke identified religious strife as the major cause of turmoil. The origins of discontent, he suggested, could be traced to the merger of the state and the church, official disregard of other religions, and persecution of minorities. This had to be countered, and for this Locke theorized *why* people had to be tolerant of other religions.

Locke's theory of toleration is grounded in two principles. Some opinions do not have any influence on the actions of others, and are therefore not subjected to the jurisdiction of the magistrate. Two, there is a vital difference, Locke suggests, between knowledge that flows from the comprehensions of propositions that relate to the experiential and the concrete, and knowledge based upon faith. The former genre of knowledge is verifiable; the latter is not since it emanates from revelation. Each human being has to validate his or her faith. For this reason, *no one* other than the person concerned, can ever understand why people believe the way they do. "The other thing that hath just claim to an unlimited toleration is the place, time, and manner of worshipping my God. Because this is a thing wholly between God and me, and of an eternal concernment, above the reach and extent of polities and government, which are but for my well-being in this world."³ If persons have determined their own faith because they have tested it against their own understanding and reason, they must allow others to so decide their own faith. There is no Archimedean point from which we can referee another's faith and find it wanting, because faith is purely subjective, and subject to only internal reasoning of the believer.

Locke's argument on toleration reflected the great debates of the day on the relationship between religion, science, and reason. In the seventeenth and eighteenth centuries, scholars, policy makers, and advisors to princes, agreed that the task of intellectuals and political pragmatists was to liberate humankind from the shackles of blind faith, and unquestioning obedience to Christian dogmas. Wars over

³ John Locke, *An Essay on Toleration*, p 137

religion had fragmented society, retarded economic growth, and fostered intolerance. The age of unreason had to be replaced by the age of reason and science, ignorance had to give way to the Enlightenment, and allegiance to sectarian norms had to be substituted by universalism.

It is not as if people became atheists or agnostics, they could believe or not believe, believe faintly or believe intensely in God. The choice was theirs alone. From a reigning ideology codified in, and enforced by the Roman Catholic Church, Christianity was demoted to another domain of belief and free exercise of choice. Religion lost its public role, and was replaced by the sovereign state. From thereon it has been the modern state that establishes and maintains the legal framework within which societies, economies, and cultures conduct multiple transactions.

One of these rules has been for long that the state will practice neutrality towards all religious groups, favour no group even if it is in the majority, and disfavour no group because it is in a minority. Aligned to this is the individual right to freedom of religion and conscience. The norm of secularism adopted by modern states might have originated in Europe by appropriation of church property and rights of the clergy. But secularism as a political norm has been in history legitimised by acceptance of the democratic rights of freedom and equality, of which the right to freedom of conscience is an integral part. This right was strengthened in the twentieth century by the right to equality. Notably, the principle of secularism, which guarantees non-discrimination on religious grounds and which sanctions the right to practice one's own religion, is qualitatively different from the principle of toleration deployed by pre-modern states. Pre-modern states deployed tolerance to regulate coexistence of different religions, maintain peace and stability, and collect taxes from subjects of a different religious persuasion. Modern states adopted secularism as a constitutive principle of gradually democratising societies.

The wheel turned in the closing years of the twentieth century. Western political philosophers, theologians, anthropologists, and postmodern thinkers announced the onset of a post-secular age for

two main reasons. One, secularisation, it is held, had led to spiritual impoverishment; people have lost access to ethical resources that can help them negotiate thorny problems. Two, religion re-entered the public sphere as a powerful and evocative form of politics. Religious groups and armed movements placed demands upon governments, attempted to shape civil societies, and engaged in state-breaking and state-making.

For postmodernists, the rejection of secularism is part of a generic rejection of Enlightenment rationality and of the baggage it carries in its wake. The return of religion to public life provides sufficient proof of the incapacities and infirmities of secular reason. Secularism, for them, has become redundant. Jürgen Habermas, on the other hand, seems to suggest that instead of abandoning ‘the secular’, we have ‘go beyond’ the concept to accommodate religious practices and affiliations in the public sphere. In an October 2001 acceptance speech titled ‘Faith and Knowledge’ on the occasion of the award of the Peace Prize of the German Book Trade, Habermas argued that “the risks of disruptive secularisation elsewhere may be addressed only when we are clear on what secularisation means in our own post-secular societies.”⁴ Secularisation he went on to clarify has a juridical meaning, the appropriation of church property by the secular state. This meaning has since been extended to the emergence of social and cultural modernism in general. Both interpretations make the same mistake insofar as they consider secularisation as a kind of zero-sum arrangement between the productive powers of science and technology and the tenacious power of the church and religion. “This image no longer fits a post-secular society that posits the continued existence of religious communities within a continually secularising society.”⁵

Habermas has, since 2001, turned his attention to the role of religion in the public sphere and on the need for inclusion of religious

⁴Jürgen Habermas, 2001, ‘Faith and Knowledge’ www.freidenspreis-des-deutschen-buchhandels.de accessed on 12 February 2017, p 2

⁵Ibid pg 3

voices in this sphere. In an essay published in 2006, he emphasised that secular minded people must adjust to the fact that religion must be accommodated and granted reciprocal rights. Religious traditions have a special power to articulate moral intuitions with regards to vulnerable forms of communal life. This potential, he argued, makes religious speech a serious candidate for communicating possible truth contents, which can then be translated into generally accessible language. “However, the institutional thresholds between the ‘wild life’ of the political public sphere and the formal proceedings within political bodies are also a filter that from the Babel of voices in the informal flows of public communication allows only secular contributions to pass through.”⁶ In Parliament, rules must empower the house leader to expunge religious statements or justifications. In sum, the truth content of religious contributions can participate into institutionalised practices of decision making, only if necessary translations have already occurred in the public sphere.

Considering that one of the tasks he sets before himself is to work out rules of coexistence between religion and non-religious or secular politics, Habermas could have considered India. The country has had a long experience of negotiating a problem that western philosophers have recognised as serious only at the turn of the twenty-first century. How does a democratic public sphere and a democratic state negotiate and manage the inclusion of religious voices in the public sphere? A plural society such as India had little choice but to recognise both the salience of religious identities and the need to protect minority rights to religion as far back as 1928.

More significantly, the Indian experience chronicles the dilemma of reconciling religion and non-religious politics. The two simply do not lend themselves to reasonable accommodation. Their relationship is troublesome, unpredictable, contingent, and chancy. It is difficult, if not impossible to resolve different vocabularies, imaginaries, symbols and modes of domination. In India, the conflict between

⁶Jurgen Habermas, 2006, ‘Religion in the Public Sphere’ *European Journal of Philosophy*, 14, 1, pp 1-25, p 10

religion and secular politics has sometimes been sorted out, and sometimes left unresolved. Sometimes one side has won, and other times the other side has waged a successful battle. On some occasions the outcome of conflict has been predetermined, on others it has been purely contingent.

The moment Western political philosophers pay attention to the Indian experience, the act of recognition might well dent their belief that political predicaments can be neatly resolved. It is time that we realise that the politics of simultaneity between disparate phenomenon and belief systems is erratic, and does not lend itself to tidy explanations. To live in a democratic society where religion shapes not only people's lives but also politics, society, and in some cases economics, is to live in a world that offers new dilemmas that are essentially irresolvable, even as older ones continue to bedevil politics. India provides an example of this paradox. The origins of the paradox are to be found in the history of colonialism.

RELIGION AND THE PUBLIC SPHERE IN INDIA

The co-existence of secularism and politicised religion, and religion as a form of politics differentiates the biography of Indian secularism from the European case. At the turn of the nineteenth century, India became a site for a rather historic encounter between two different sorts of civilisations: Hinduism marked by heterodox traditions, localised power structures, deities, rituals, and system of belief, and Christianity dedicated to deism, fired by the ethos of the Enlightenment- reason and universality, and by the Judeo-Christian concept of religion. Ironically, Europeans, themselves the product of a political modernity that privileged reason and science over faith and adherence to norms bequeathed by ancestry, triggered the turn to religion, in the biography of secularism.

Different colonial agents began to propel reflections on, consideration of, and debates on Hinduism; Indologists or Orientalists as they came to be known, colonial administrators, and Christian missionaries. Indologists were fascinated by Hinduism and Sanskrit the medium of literature and sacred texts, Christian missionaries

planned to study the religion they wanted to replace with Christianity, and colonial officials had no choice but to study the religion and the social practices of a society that they intended to govern. All of them possessed different projects that they wished to pursue. But as S.N. Mukherjee suggests in his work on the Indologist Sir William Jones, there was an underlying unity to the different projects of understanding India. Men, he suggested, came to the country for a variety of reasons, to make money, for adventure, and for a step up the social ladder in England. But a majority of them possessed a definite missionary zeal to shape the future of the country. Though the subsequent transformation of India was produced by a complex of factors, “the ideas, which set politicians in motion to reform the administrative system, left a definite mark upon Indian society.”⁷⁷

The most momentous mark left by colonialism on India, a mark that has not only proved ineradicable, but become the anchor of the political project of the Hindu Right, was that of the translation and interpretation of classical texts of religion and philosophy through the prism of Western-centric thought and understanding. Under the onslaught of criticism by Christian missionaries, influential western philosophers, and colonial officialdom, Indian intellectuals, leaders and social reformers launched an enquiry into religious practices, and tried to refashion Hinduism according to ancient texts as well as in the light of received wisdom of western liberal theory. In India, modernity arrives through processes of intense reflection on, and critique of actually existing religion, and not through the devaluation of religion. From the early nineteenth century onwards, Indians were surrounded by, swept up in, and swamped by discussions, invention of new interpretations, new modes of measuring and critiquing received wisdom, and anxious responses by orthodoxy.

In the attempt to reform Hinduism by returning to the original sacred texts, and the counter-reaction by conservative elements, we see the making of a public sphere as the site for competitive politics

⁷⁷S.N. Mukherjee, 1968, *Sir William Jones: A Study in Eighteenth-Century British Attitudes to India*, Cambridge, Cambridge University Press, p 2

of affirmation, contestation, mediation, and transformation. Initially investigations into the question of ‘who are we’, and ‘where have we come from’ revolved around Hinduism. This preoccupation did not fade away with the passage of time, nor was it replaced completely by non-religious considerations. On the contrary awareness of religious identities became the anchor of nationalist imaginaries. The connection was clearly articulated in the case of right wing Hindu organisations. But even in the moderate wings of nationalism, particularly in the political agenda of the Indian National Congress, religion did not stray too far away from the central plank of social reform and political freedom.

As the public sphere consolidated itself as an essential site for the construction of the social reform, and the national/anti-colonial project, religion became more not less relevant to multiple political discourses. At the end of the nineteenth century Hinduism as well as Islam were foregrounded by intellectuals, leaders, and political organisations for many reasons, to regenerate and reform Indian society, to serve as an anchor for the national project or rather projects, as a dominant language that enabled leaders to forge a constituency among the people, as a repertoire of symbols to restore confidence in the greatness of a civilisation, and to mobilise opinion against the colonial power. Colonial policies gave an added flip to politicisation through practices of group representation in government vide separate electorates, politics of enumeration, and politics of what has been called ‘divide and rule’.

That the articulation of religion and nationalism generated the two-nation theory, and ultimately the partition of India on religious grounds is well known. Competitive nationalism and competing notions of the nation found their culmination in the formation of Pakistan, as a homeland for Muslims of South Asia, and an India that remained committed to secularism, even though religious and political animosities and claims continued to hover over the political horizon. In sum, India’s public sphere, unlike the European public sphere, was not stripped of religious vocabularies and imaginations in times of political modernity. Controversies over and within religions

shaped a public sphere as the space for the politics of contestations and affirmations over religion. Secularism emerges as a political norm in the context of intense politicisation of religion, debates, controversies, and competitive religious nationalism.

THE NORM OF POLITICAL SECULARISM

In 1928, amidst religious strife between the Hindus and the Muslims, leaders of the Indian National Congress drafted a constitution in association with other political groups. The constitutional draft offered to the Muslim community protections in the form of minority rights to culture, educational institutions, and script.⁸ In 1931 the Karachi Resolution on Fundamental Rights, authored in the shadow of a communal riot, emphasised that a post-independence state would be neutral to all religions. In 1947 the leaders of the Congress failed to convince the leadership of the Muslim League that the Muslim community would possess equal citizenship rights, as well constitutional protection to their own religion, in post-independence India. The Constituent Assembly met in the shadow of the Partition, amidst wide scale rioting, massacres, and looting of property. However, the makers of the constitution stood firm when it came to secularism and minority rights. Dr Ambedkar the Chairman of the Drafting Committee stated resolutely that the “rights of minorities should be absolute rights. They should not be subject to any considerations as to what another party may like to do to minorities within its jurisdiction... I think that the rights, which are indicated in clause 18 are rights, which every minority irrespective of any other consideration is entitled to claim”⁹. The right of minorities to their own culture and the right to run their own religious institutions was granted vide article 29 but more importantly by article 30 of the fundamental rights chapter. In sum, whereas article 25 of part three of the Constitution,

⁸*Selected Works of Motilal Nebru*, 1995, Edited by Ravinder Kumar and Hari Dev Sharma, volume 6, published under the auspices of the Nehru Memorial Museum and Library, New Delhi, Vikas,

⁹*Constituent Assembly Debates*, 1989, Official Reports, vol 3, 28th April to 2 May 1947, Delhi, Lok Sabha Secretariat, pg 507-8

grants the individual right to freedom of religion, articles 29 and 30 recognise groups as bearers of rights.

Oddly enough the concept of secularism was neither elaborated by the leaders of the freedom struggle or by the members of the Constituent Assembly. In the Constituent Assembly discussions on secularism were basically the by-product of the debate on minority rights, personal codes, and arguments that religion is the source of injustice and should be controlled. It was in 1948 that the first Prime Minister of India Jawaharlal Nehru spelt out the implications of secularism at a convocation address in Aligarh Muslim University. Secularism, he said, did not mean “a state where religion as such is discouraged. It means freedom of religion and conscience, including freedom for those who may have no religion.”¹⁰ “It is perhaps not very easy even to find a good word for ‘secular’. Some people think that it means something opposed to religion. That obviously is not correct. What it means is that it is a state which honours all faiths equally and gives them equal opportunities; that, as a state, it does not allow itself to be attached to one faith or religion, which then becomes the state religion.” For Nehru the concept of the secular state thus carried three meanings: (a) freedom of religion or irreligion for all, (b) the state will honour all faiths equally, and (c) that the state shall not be attached to one faith or religion which by that act becomes the state religion.

Strictly speaking we do not need secularism to ensure that all people have the freedom to religion or atheism. Nor do we need secularism to mandate that no religion will be discriminated against. Both these rights are protected by democracy. The doctrine of secularism specifically implies that the state shall not be aligned to one religion, which by that attribute becomes the state religion. This is fundamental to the democratic right of non-discrimination on morally arbitrary grounds such as birth into a religious community. Secularism is in other words an attribute of the democratic state, with the democratic rights of equality and freedom construing the

¹⁰ In S.Gopal, 1980, *Jawaharlal Nehru: An Anthology*, New Delhi, Oxford University Press, p 327

preconditions of equality of all religions. Conversely secularism supports the specific right of religious communities to equality. This becomes clear the moment we begin to understand that substantive equality implies protection of vulnerable groups.

The term secularism was inserted into the Preamble of the Indian Constitution only in 1976. But the meaning of secularism as ‘honouring all faiths equally’ has become an accepted way of conceptualising the concept, which according to the 1973 judgement of the Supreme Court in the *KesavanandaBharati versus State of Kerala* is part of the basic structure of the Constitution.¹¹ Gary Jacobsohn who has carried out a close reading of the various arguments offered by the Supreme Court during the *Bomma* case in 1994, has isolated the dominant theme in these arguments as ‘equal treatment of religions, often referred to in Indian tradition as *sarva dharma sambhava*...In the same vein Justice Sawant emphasised that “The State is enjoined to accord equal treatment to all religions and religious sects and denominations. It is a theme that was echoed by Justice Reddy, who literally underlines the point by declaring ‘*Secularism is...more than a passive attitude of religious tolerance. It is a positive concept of equal treatment of all religions*’”¹². The court has continued to reiterate the interpretation of secularism as equality.

In short, the Indian version of secularism recognised the historical legacy of pre-independent India; the salience of religious identities, the politicisation of religion in the public sphere, the fragile line between religion as personal faith and religion as politics, and the plurality of religious identities and belief systems. Secularism as an attribute of democracy guaranteed the existence of a public sphere where religious identities not only lived cheek by jowl with each other, but with also secular or non-religious value systems.

¹¹Ronojoy Sen, 2007, *Legalizing Religion: The Indian Supreme Court and Secularism*, Policy Studies 30, Washington, East-West Centre, pg 6

¹²Gary Jeffrey Jacobsohn, 2003, *The Wheel Of Law: India's Secularism in Comparative Constitutional Context*, Delhi, Oxford University Press, p 146-47, italics in the original.

CO-EXISTENCE OF SECULARISM AND RELIGION IN INDIA

The coexistence of secularisation and religion has neither been completely harmonious nor wholly discordant. In some cases, social practices associated with religion have been subordinated to secular and democratic politics. The Supreme Court has distinguished between ‘essential’ and ‘inessential’ practices of a religion, to decide which practice warrants constitutional protection. In 1961, Justice P.B Gajendragadkar declared that specific practices must be regarded by the said religion as an essential and an integral part. If these practices are inessential they will not be accorded constitutional protection. The Supreme Court, in other words, carried on the colonial project of defining religion, and the nationalist project of reforming religion. In another case, the court ruled that “A claim made by a citizen that a purely secular matter amounts to a religious practice, or a similar case made on behalf of the denomination that a purely secular matter is an affair in matters of religion, may have to be rejected on the ground that it is based on irrational considerations.”¹³

The project of regulating religion was accompanied by the project of subordinating religion to democracy and justice. In 1996, in the case of *A.S. Narayana Deeshitulu v State of Andhra Pradesh*, the Supreme Court established “that the rights to religion guaranteed under Article 25 or 26 are not an absolute or unfettered right, they are subject to reform or social welfare by appropriate legislation by the State”.¹⁴ In pursuance of the project of democracy and social reform, the Court has empowered the State to control religious denominations and authorised comprehensive interventions in their administration and maintenance. Hindu personal laws have been reformed in the cause of gender justice, and the exclusion of the so-called lower castes from temples, and wells, has been declared a constitutional offence, and penalised.

The project of the post-independence Indian state to reform society by limiting the power of religion, was phrased in a new political

¹³Ronojoy Sen, *op cit*, pp 19-20, and 21

¹⁴9 SCC 548

language: social welfare, fundamental rights and democracy. The logic appears to be that the secular state cannot guarantee plurality of and equality between religions, unless religious communities subject themselves to dramatic restructuring. The state in India thereupon set about controlling religion in the interest of democracy, and democratising religion in the interests of pluralism.

In the second instance, the Supreme Court has delayed judgement on contentious issues, and thus warded off serious problems that might follow in the wake of controversial decisions. For instance, in December 1992 cadres of the Hindu right had demolished a mosque built in 1528 by a general of Emperor Babar, on the ground that a Hindu temple had been razed to the ground to construct the mosque. Across the country communal riots between Hindus and Muslims followed the demolition of the mosque, and reportedly 2000 people died in these riots. In 2010 the Allahabad High Court decided that the 2.77 acres disputed site, where the sixteenth century mosque had stood before its demolition, should be divided into equal parts between the contending parties. An appeal was filed in the Supreme Court against the verdict, along with another appeal that a temple should be constructed on the exact site on which the mosque had been built. The highest court of the land has still not given a judgement, on the plea that it needs at least a decade to peruse the records of the case written in Arabic, Persian, Sanskrit, Hindi, Urdu and Punjabi. It took the Allahabad High Court fifty years to deliver a verdict on the original case filed in 1950, that the respondent be allowed perform prayers before the idol of the God that had been placed in the mosque in 1949. The Supreme Court is no hurry to decide the case, because any decision is bound to have serious repercussions on communal harmony. In this case, clearly, the state has been unable to control religious demands, or subordinate them to the dictates of justice. The problem remains unresolved, because no resolution is going to stave off murderous riots. Controversial themes are best placed off the political agenda, this seems to be the position of the court.

In a third instance, we see two anachronistic practices existing side by side in India. In August 2015, the Rajasthan High Court Bench

in accordance with sections 306 and 309 of the Indian Penal Code that criminalises abetment to suicide and attempted suicide, directed the state government to treat the Jain practice of Santhara as suicide. According to the practice of Santhara, persons belonging to the Jain community can choose to give up food and water, and await death in certain stipulated cases, when they believe, for example, that the objective of their lives has been fulfilled. The fast, which is undertaken voluntarily is an integral part of the Jain belief that the body is a prison for the soul.¹⁵ A person has the right to choose death for the soul to be liberated from the confines of the corporeal body. On the other hand the belief that suicide is a criminal act, because only God can take away life, is part of the Christian faith.

The judges of the High Court concluded that Santhara is not essential to Jainism and banned it. The decision of the state judiciary was overturned by the Supreme Court following mobilisation of the Jain community. The ban was accordingly lifted. Two practices continue to live side by side, the practice of treating suicide as criminal, and that of voluntarily accepting death. The first is informed by the belief that suicide is an act against God. This belief can hardly accept any other notion of the self, one that sees death as freedom for instance. Two practices that contradict each other survive in the same domain of the politics of contestation and affirmation, but speak past each other.

These three cases illustrate the paradox of coexistence of religion and secular politics. In the first case, the state has subordinated largely Hindu rituals and practices to democratic norms. In the second instance the state has pragmatically stayed away from contentious issues such as the Ayodhya case, and the issue of Christian and Muslim personal laws even though the latter violate gender justice. In the third case, two contradictory practices manage to co-exist by ignoring each other. The two languages of religion and secular politics cannot easily be translated into each other, and in some cases religious identities continue to exert their force against secular and democratic values.

¹⁵The practice is followed both by Shwetambara and Digambara sects of Jains

Clearly western political philosophers seem to greatly underestimate the problem of reconciling religion and secular politics.

OUR POLITICAL DILEMMA

In zeroing in on this particular dilemma; of the difficulties of co-existence, I presume that the brief of political theory (or at least one sort of political theory) is to address, understand, and clarify political paradoxes that dodge our collective lives. I doubt if these dilemmas can ever be resolved, we can only try to manage the shortfalls, we can only try to contain the undesirable after-effects of living amidst paradoxes. This is perhaps natural for the world of politics we inhabit is shot through with discrepancies and irreconcilable dilemmas. Attempts to bring neatness into either explanation, or prescription into understandings of contradictory practices, can prove flawed, for politics does not lend itself to neat ordering of principles. At the best political theory can help us to understand that we are fated to live amidst contradictions. How can we best live amidst these contradictions? This is the question.

Dilemmas, wrote the philosopher Bimal Matilal are, like paradoxes, and genuine paradoxes are seldom solved. “They are generally speaking, resolved or dissolved. Those philosophers and logicians, who have tried over the centuries to solve the well-known logical and semantical paradoxes, have more often than not created new problems elsewhere in the conceptual apparatus, which exposes the non-existence of a universally accepted solution. Can moral dilemmas be put into the same category as unsolvable paradoxes?” Theologians, ethicists, and ‘strong-minded moral philosophers’ he goes on to argue, have often been reluctant to admit the reality of moral dilemmas. If there can be genuine unresolvable moral dilemmas in a moral system, then it would be good as courting defeat in any attempt to formulate rational moral theories.¹⁶ But we are, suggests the philosopher, fated to inhabit a world of irresolvable dilemmas.

¹⁶Bimal K. Matilal, 2014, ‘Moral Dilemmas: Insights from Indian Epics’, in Bimal K. Matilal edited *Moral Dilemmas in the Mahabharata*, Simla Indian Institute of Advanced Studies and Motilal Banarsidass Publishers, Delhi, pp 1-19

Matilal illustrates his argument with a story found in the great Indian epic the Mahabharata.¹⁷ The Mahabharata, he suggests, is shot through with the meta-concept of *dharma*, which can be interpreted as righteous conduct that makes for a normative order. There is however no definitive meaning assigned to *dharma*, and the concept is ambiguous and elusive. Not surprisingly, we discover within the structure of *dharma*-ethics, dilemmas. These are not culturally specific Matilal hastens to add; they are universal, and can be effectively used to illustrate arguments in moral philosophy.¹⁸ Moral dilemmas arise when the agent is committed to two or more moral obligations, but circumstances are such that an obligation to do *x* cannot be fulfilled without violating an obligation to do *y*. Dilemmas present irreconcilable options, and the actual choice among them becomes either irrational, or is based upon grounds other than moral.

This is contrary to the system of Kantian ethics. For Kant objective practical rules should form a harmonious whole, and a system characterised by consistency, much like a system of true beliefs. The system presumes that two mutually opposing rules cannot be necessary at the same time. Therefore, if it is a duty to act according to one of them, it is not only a duty but contrary to duty to act according to the other. Moral conflicts cannot be genuine, there can only be conflict between genuine duty and a ground of duty. In

¹⁷A hermit Kausika, had vowed always to tell the truth because he desired above all to go to heaven and thus break the endless cycle of rebirth. One day as he was sitting near a cross road, he saw a group of travellers rush by in order to escape bandits pursuing them. While passing the hermit the travellers pleaded that he should not tell their pursuers the direction they had taken. But asked the direction by the bandits, who seemed to know that Kausika never ever lied, Kausika bound by his vow, told them the way the benighted travellers had fled. He did not ascend to heaven. This duty to tell the truth had violated his duty to save innocent lives.

¹⁸Matilal accepts that morality is not an Indian term and its Sanskrit equivalent is not easy to find, except the ubiquitous *dharma*, but it would be wrong to argue that just because a particular term is not used in a tradition, then the social and political reality denoted by that term does not exist. In that case one might argue that since the term religion did not have a Sanskrit equivalent in ancient India, the social reality we call religion does not exist, *ibid*, pg 6

Kantian ethics, truth telling gets the highest priority, as is promise keeping. This is equally true in the Indian systems of ethics that extols truth telling as *satya-rakhsa* (protection of the truth). No cultural relativism can be found here. But when two equally strong obligations; that of truth telling and that of saving lives, conflict¹⁹, keeping of a promise cannot be an unconditional obligation. In such situations, we have to make a choice between different sorts of options that might minimise harm.

The implication is that we bear moral responsibility for the choices we make. For instance, suggests Matilal, Kausaka could have told the bandits that though he knew which way the travellers had gone he would not share this information, or simply kept quiet. But he interpreted his commitment to tell the truth unthinkingly and unimaginatively, and innocent lives were lost. We learn from Matilal that the dilemmas we find ourselves in might well prove intractable, but there is no reason why we cannot negotiate them with some degree of resourcefulness and ingenuity.

In light of this wisdom I suggest that we cannot dispense with secularism in a multi-religious society. Even if civil rights guarantee freedom of religion and equality between religions, there has to be a clear provision that bars the state from aligning with one religion. The coming together of two awesome forms of power poses a danger for not only minorities but also ordinary citizens. The moment we forget this aspect, we overlook the fact that the combination of formidable religious and overwhelming political power is cause for highly charged political anxiety. The overlap poses a distinct threat to freedom of conscience and expression, and provides opportunities for the religious group that is aligned to the state to legitimise its practices through the coercive power of the state. Disrespect to other religions follows, because members of minority religions are not treated as equal participants in debates in the public sphere and in law. This seriously compromises the basic tenets of democracy; equal citizenship rights. It is difficult not to conclude that secularism is the only concept that can enforce a separation of power between religion and the state, *provided* we rethink the project in the light of the following two considerations.

A secular state is not concerned with personal faith, ritual, or with theological questions of how many angels can dance on the head of a pin, or whether *karma* is a peculiar way of justifying present injustices and harm. It is concerned with deepening one aspect of democracy in a plural society, equality/non-discrimination between religious communities in the public sphere. It follows that secularism is not a stand-alone concept, but a companion concept of democracy. Whereas secularism holds that a government shall not harness its projects to a religious agenda, legitimise itself by reference to religious authority, proclaim a state religion, or discriminate against minority groups, democracy establishes that non-discrimination and freedom of belief flow from the generic principle of equality and freedom. Discrimination and injustice within groups is tackled through appeals to individual rights and status. This is a necessary precondition for secularism that aims to regulate relationships between religious communities, insofar as a secular state will find it difficult if not impossible to defend a community marked by undemocratic practices as equal to communities that constantly strive towards democracy. The location of secularism in the theory and practice of democracy is important if we want to pre-empt the overstretching of secularism. This might be one way out of the dilemma we find ourselves in.

CONCLUSION

In the specific context of India secularism was intended to bridge the gap between the empirical proposition that India is a plural society and the normative one that plurality is of value. In order to ensure pluralism, the doctrine of secularism was buttressed by minority rights. The experience of India shows that the coexistence of religious and the non-religious in the public discourse is not by any means neat. It cannot be because there is, arguably, a fundamental discrepancy between religious and secular languages. Religion gives to believers 'thick' or comprehensive conceptions of the good that help them to make sense of the world, order their lives, and relate to others. This is the basis of religious assertions in the public sphere. The concept of secularism is, in comparison, 'thin' insofar as it establishes

procedures that indicate what the place of religion in the public domain is, and what the relationship between different groups should be. I am not suggesting that secularism is not a good; merely that secularism does not tell people how to lead their lives or what to strive for. The principle of secularism contributes to the construction of a normative structure where people can pursue their faith or any other substantive conception of the good unburdened by discrimination, and where the state does not discriminate between different religious groups. The two languages pertain to different sorts of goods and are in many cases difficult to translate. But that is the nature of democratic political life, irresolvable dilemmas that can only be negotiated through the deployment of imagination and creativity in thinking and practice.

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