What’s in a name? India’s tryst with secularism

Ian Copland*

School of Philosophy, History and International Studies, Monash University,
Clayton, Australia

It has always been the claim of India’s politicians that their country is a ‘secular’ state. However, although the Preamble to the Constitution of 1950 proclaims India to be ‘democratic’, it makes no mention of secularism. Fobbed off at the time as of no consequence, this omission was quite deliberate and reflected an awareness on the part of the designers of the constitution, notably Nehru and Ambedkar, that its provisions under ‘freedom of religion’ did not amount to what they understood to be ‘real’ secularism, namely the kind of polity famously embodied in the 1791 First Amendment to the Constitution of the United States.

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Hinduism is secularism par excellence.
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Puzzles

Foreign visitors arriving in India’s capital these days are left in no doubt that the country has its sights set on global greatness. With India’s economy growing at over 8 per cent per year, billboards proclaim ‘India poised’ and ’India’s time is now’ and commentators predict that by mid-century India will be a global power on a par with the USA and the European Union. However, in contrast to the somewhat nervous international reaction that has greeted the rapid rise of that other awakening Asian giant, the Peoples’ Republic of China, the emergence of ‘shining India’ has been almost unreservedly welcomed, not least in
the West. This is because, unlike Red China and, indeed, most of the world’s New States, the Republic of India is seen as a secular democracy. Democracies are few enough; ‘secular’ states are in even shorter supply.

There is no doubt, too, that this is the way India presents itself, ideologically speaking. The Preamble to the Constitution identifies the country as a ‘sovereign socialist secular democratic republic’, a position that the judiciary has consistently upheld and since 1947, the term has been a constant of Indian political discourse. ‘Ours is a secular state’, the premier of Uttar Pradesh pointedly reminded the Convocation of Aligarh University in 1950. ‘We must never forget’, Prime Minister Jawaharlal Nehru told state chief ministers in 1954, ‘that we take pride in having a secular state’. As for the scholarly community, while differences exist as one would expect (especially, as we shall see, about the nature of Indian secularism) the consensus is, again, strongly supportive of the general claim (e.g. Bajpai, 2002). Interestingly, both the first of Nehru’s biographers and the author of the most recent general history of contemporary India, writing over 40 years apart, concur that ‘the creation of the secular state’ should be seen as one of the most important achievements of the era (Brecher, 1959: 625; Guha, 2007: 385).

Nonetheless, I am not convinced by this purposeful rhetoric; it seems to me that India’s claim to be considered a properly secular state is in actuality somewhat tenuous. It is not just that secularism in India today is widely thought to be going through a crisis (Malik & Vajpeyi, 1989; Tambiah, 1998; Ganguly, 2003) – that it is currently under fire from both Hindu Rightist elements and from sections of the Indian middle-class intelligentsia, which holds it unfitted to Indian conditions, and indirectly responsible for the continuing upsurge of communal violence in the country (Nandy, 1990; Madan, 1993, 1998) – although these are, in themselves, obvious signs that something has gone awry with the Indian secular experiment. The issue is more basic than that that, and more slippery, for as I shall explain shortly, at the heart of it lies the thorny question of what ‘secularism’ actually means and implies politically.

To begin with, consider the following. The word itself has been part of the preamble of the Indian Constitution only since 1976, belatedly (and arguably opportunistically) interpolated by the Congress government of Indira Gandhi as one of several changes collectively known as the 42nd Amendment. It featured nowhere in the original document. To be sure, the idea had its supporters within the Constituent Assembly. Indeed, on two occasions, Professor K. T. Shah moved from the floor to have the word secular included. However, each time the change was stoutly opposed by chairman of the Drafting Committee and acknowledged ‘architect’ of the document, Scheduled Castes Federation chief Bhim Rao Ambedkar. Ambedkar’s defence was that ‘the policy of the State, how the Society should be organised in its social and economic side’ were matters best ‘decided by the people themselves according
to ... circumstances’ and should not ‘be laid down in the Constitution itself’.\(^4\) But this objection rings hollow given that he had previously sponsored an amendment to substitute ‘democratic’ for ‘independent’ in the preamble, on the ground that the latter term better described the make-up of the new state.\(^5\) For another thing, Jawaharlal Nehru, widely regarded, as noted above, as the creator of the secular state in India – although a frequent and (as Prime Minister) obviously influential participant in the Constituent Assembly process – rarely referred to secularism by name in the course of his interventions and made no effort to sell it to the Assembly as something worth adopting. Third, while the benefits of secularism were often vigorously asserted by delegates, contrary to some scholarly opinion there was never a genuine debate about it grounded in political theory or the empirical experiences of self-styled secular regimes. As Bajpai (2008) points out, the focus of the debate on the draft constitution in November and December 1948, which prompted most of the above references, was about how the constitution should deal with India’s ‘minorities’, and the permissibility, in that regard, of statutory representation.

These are all puzzling aspects. But perhaps even more puzzling is the absence of a ‘pre-history’ of secularism in Indian political discourse before 1947. The term was never part of the vocabulary of the British rulers – their nearest equivalent was ‘neutrality’. They occasionally employed the adjective, secular, for instance in regard to the Raj’s stance on public education, but never the noun. And it was not employed during the colonial period by the Congress either. It is true, as several writers have noted, that a set of resolutions moved and carried at its annual meeting at Karachi in March 1931\(^6\) closely approximated the list of Fundamental Rights later elaborated in the constitution. Among them was the pledge that no future Indian citizen would suffer discrimination ‘by reason of his or her religion, caste, creed or sex’. Furthermore, from notes left by Mookerjee, it is evident that the constitution-makers drew from it explicitly.\(^7\) That said, nowhere in the Karachi document is freedom of religion linked to a polity identified as ‘secularism’. And the same goes for the debates that led up to the Karachi Manifesto and the earlier round of discussions on the subject of India’s future governance which took place at the Allahabad All-Parties Conference of 1928. Asked by a journalist to respond to reports that the All-Parties Conference was divided on whether India should become a ‘Dominion’ tied to the Crown, Jawaharlal Nehru replied emphatically: ‘the constitution should establish a democratic socialistic republic in India’.\(^8\) The omission speaks volumes. Despite what has been suggested by a number of scholars including Kothari (1970: 60), Chandra (1999: 21) and Tejani (2007: 13) there is hardly a shred of evidence to support the proposition that Indian secularism was a by-product of the national struggle.\(^9\)

Misra (2008: 387) accurately describes secularism as ‘one of the great foundational myths of the Indian republic’. I am intrigued by its provenance. Like
Tejani (2007: 15), I want to probe its genealogy. I wonder, for instance, why many Indians were so keen to associate the polity of their new state with a concept rooted in Western tradition and why, nevertheless, the term itself failed to find a place in the nation’s cornerstone document. In particular, why was this singular omission connived at and quite possibly orchestrated by a national leader who was a sincere believer in Western-style secularism?

Prescriptions

The logical starting point for an analysis of Indian secularism is the constitution. The Constituent Assembly convened in 1946 and concluded its main work in November 1949, 116 sitting days later. The document that emerged from these labours, promulgated on Republic Day 1950, contains, as indicated earlier, a comprehensive list of Fundamental Rights. It also features, unusually, a further list of ‘Directives of State Policy’, for the guidance of the Union and other Indian governments. Although long and perhaps overly weighted down with detail, the Indian Constitution is rightly seen as a progressive charter not least with regard to matters of faith.

Article 25 (1) enables all Indian citizens, equally, one to another, the right ‘to profess, practise and propagate religion’. Under Article 26 (a) citizens are at liberty ‘to establish and maintain’ religious institutions. Article 27 prohibits the state from raising taxes for specifically religious ends. Under Article 28 (1), state-run schools are barred from religious teaching; while Article 28 (3) forbids schools run by religious sects from compelling students to attend religious instruction classes. Discrimination on religious grounds is expressly prohibited in admission to educational institutions by Article 29 (2), in recruitment to the public services by Article 16 and in respect of all ‘places of public resort maintained wholly or partly out of State funds’ by Article 15 (Rao, 1968a, vol. 4: 758–759; Pylee, 1960: chs. 14–18). On the face of it, these three clauses offer extensive protection to religious liberty on the one hand and against religious compulsion on the other. Article 25, note, makes no mention of ‘worship’ but speaks instead of ‘practise’, which theoretically extends the guarantee of the state to public rituals such as processions and festivals.10 What is more, it specifically gives people the right to ‘profess’ religion. India’s is virtually unique among the modern world’s constitutions in this respect. It is apparently with these provisions in mind that Chandra (1999: 48) writes that: ‘the spirit embodying the Constitution was secular’.

Nonetheless, I would challenge that assessment. Whatever its inspiration may have been, the actuality of the Indian document is certainly not secular, at least by the standards of the best-known Western articulation of the concept, the First Amendment enacted by the USA legislature in 1791, which lays down that:
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

To be sure, one cannot take the meaning of this somewhat cryptic summation as self-evident, and Americans certainly have not done so. On the contrary, it has been argued about endlessly (Levy, 1986; Weber, 1990). Nevertheless, the majority of commentators have interpreted the Amendment in the light of President Thomas Jefferson’s 1802 letter to the Danbury Baptists’ Association in which he characterised the intention of its sponsors as wanting to ‘build a wall of separation between the church and the state’ (Smith, 1963: 17). For instance, in two landmark cases, *McCollum v Board of Education* (1948), and *Engel v Vitale* (1962), the US Supreme Court, in determining that it was unconstitutional for American public schools to associate with organised religion, specifically invoked Jefferson’s ‘wall of separation’ metaphor. Moreover, the Court has, on several occasions, argued that the separation doctrine should be understood not just as a prohibition against the establishment of any church, or as requiring the government to treat all sects equally, but as excluding the state totally from the religious sphere. In the pithy words of Justice Frankfurter’s judgement in *McCollum*: ‘Separation means separation and not something less’.

Bearing this tradition in mind, it is significant that Americans have often found flaws in the Indian construction of the secularism doctrine. In December 1949, the US Ambassador in New Delhi reported apropos a change to Article 48: ‘the inclusion of this provision will make it more difficult for Indian leaders to defend their claim that India is a secular state’. Later, the Supreme Court’s William O. Douglas wrote of Article 25: ‘It may be a desirable provision. But it [represents] … a sharp break with the American ideal of religious liberty as enshrined in the First Amendment’ (Jacobsohn, 2003: 50). However, they have not been alone in this. As early as 1954, a judge of the Madras High Court pinpointed exactly the key distinction between the two models in a case brought to test the validity of the Madras Hindu Religious Endowments Act of 1951, which had placed all the state’s public temples under governmental supervision. Counsel for the plaintiffs argued that the law infringed the doctrine of separation of church and state that India had ‘adopted’ from the US Constitution. But Justice Venkatarama Aiyer dismissed this contention as specious:

It must be noted that while Arts. 25 and 26 reproduce the law as enacted in the second clause of the First Amendment there is nothing in our Constitution which corresponds to the first clause therein. The inference is obvious that the framers of our Constitution were not willing to adopt in its entirety the theory that there should be a wall of separation between Church and State which the first clause of the First Amendment was interpreted to embody … In this respect our Constitution makes a substantial departure from the American Constitution.
Looking, again, at the document, it is not hard to see how Douglas and Aiyer arrived at that conclusion. At least half a dozen clauses of the Indian Constitution associate the Indian state, in one way or another, with religion. In Article 60 it is laid down that oaths must be taken ‘in the name of God’.14 Articles 28 (1) and (3), 29 (2) and 30 (2) collectively sanction the state funding of schools managed by religious denominations. Although Article 27 seems to ban the state from appropriating tax revenues for the purposes of maintaining religion, what the clause actually says is that no taxes shall be utilised to subsidise ‘any particular religion’, which, of course, leaves it free to spend any amount it likes on religion, so long as it spreads its bounty around evenly (Rao, 1968a, 4: 758). Indeed Article 290A, added following a territorial transfer between Madras and Kerala in 1956, actually mandates such spending: under this special provision six million rupees per annum are allocated for ‘the maintenance of Hindu temples and shrines’ in the two states (Gajendragadkar, 1971: 58–59). Last but not least, Directive Principle 11 (Article 48), inserted late in the day after lobbying from Hindu representatives, requires the government to endeavour to organise agriculture and animal husbandry on scientific lines and preserve and ‘improve the breeds and prohibit the slaughter of cows, calves and other milch and draft cattle’.

The cow in India is a totemic object, sacred to Hindus and – prior to Independence – prized by Indian Muslims as a ritual offering at the Islamic festival of ‘Idu’l-Azha.

However, arguably the most unusual feature of the constitution, from a secular perspective, is the license it gives the state to regulate religious institutions and practices. Mindful, perhaps, of the strength of orthodox Hindu opinion which has always bitterly opposed any state intervention in religious matters,15 Congress had earlier leaned towards a laissez faire approach,16 but when the Fundamental Rights Committee of the Assembly started work this position was abandoned on the ground that the state had to be empowered to take action against communal groups who used religion to preach hatred and violence against the minorities, and to remedy social abuses. As Rajkumari Amrit Kaur pointed out, a blanket clause restricting state interference in religious matters had the potential to ‘invalidate legislation against [the many] anti-social customs which have the sanction of religion’.17 Thus was born the swingeing Article 25 (2), which reads:

Nothing in this article shall affect the operation of any existing law or prevent the State from making any law:

(a) regulating or restricting any economic political or other secular activity which may be associated with religious practice;
(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all . . . sections of Hindus.18
While the first clause might appear to restrict the sphere of legitimate state inter-
vention to the organisational side of religion – such as the management of
temple estates – Ambedkar put a rather different gloss on Article 25 (2)
during the debates in the Constituent Assembly. For instance in April 1948
he declared:

This country is inhabited by . . . many communities. Each one has its special laws
and merely because the State [has] desired to assume a secular character it should
withdraw itself from regulating the lives of the various communities undoubtedly
would result in nothing but chaos and anarchy. I certainly myself am not prepared
to subscribe to that sort of proposition.19

Moreover, since 1954 the Supreme Court has tended towards a similar view of
the government’s responsibilities. In his decision in Durgah Committee Ajmer v
Hussain Ali (1961), Chief Justice Gajendragadkar ruled that only practices
which formed ‘an essential and integral part’ of religion were exempt from gov-
ernmental auditing. Mere ‘superstitious beliefs’ the judge added controver-
sially, could not be considered ‘integral’. Subsequently, in Shri Govindlalji v
State of Rajasthan, the Court pushed this doctrine still further, holding that
even practices regarded as integral by a religion’s own followers could, in
certain cases, fall within the scope of Article 25 (2) (b) (Gajendragadkar,
1971: 76–78).

Lack of complete separation is not, arguably, the only feature of the Indian
Constitution that disqualifies it from being considered fully secular; the recog-
nition it gives, for example, in Articles 16 (4), 29 and 30, to the socio-cultural
rights of minority and disadvantaged groups, goes against the secular principle
that governments should concern themselves solely with individual citizens.
But it was the one that Luthera seized upon when he wrote the first scholarly
account of secularism in the Indian context in 1964. ‘It is . . . argued in this
study that the state, as established under the present Constitution of India, is
not secular and [that] to describe it as such is to misuse the term’, Luthera
(1964: 3) wrote. This categorical conclusion flies in the face of much recent
scholarship (e.g. Bajpai, 2002: 180, 182, 189) but seems to me incontrovertible.

Not only has the Supreme Court allowed and enjoined qualified intervention
by the state in the religious arena, this was clearly the broad intention of the
Constituent Assembly. Indeed, many delegates were of the opinion that the new
Indian state should be – not just a guardian of religion – but also an active pro-
ponent of the ethical virtues of religious faith. According to V. Sarwate, a
 secular state did ‘not either ban religion or despise it’.20 The secular state,
advised Hussain Imam, was not ‘irreligious but non-religious’.21 ‘A secular
state’, declared Congress heavyweight K. M. Munshi, was ‘not a Godless
state’, nor one ‘pledged to eradicate or ignore religion’, adding that the state in
India simply could not be ‘secular in the sense of being anti-religious’.22
Arguably, even the ‘secular’ American state remains, at some level, attached to religion, as its currency proclaims; and the same is true, to a greater or lesser degree, of most European states which style themselves secular. Still, I would imagine that the founding fathers of the USA would have been perplexed and affronted by the proposition that the state should be actively involved in upholding the practise of faith. For them, religion was a private and personal matter (especially so within the Protestant confession) with which the state had no business. Interestingly, and perhaps ominously, among the very few Assembly members who ventured to speak against the notion that the state should regulate religious life, almost all were Muslims.

Precursors

Thus far we have established (1) that the polity forged by India’s constitution-makers is, in respect of religious belief and practice, highly interventionist; (2) that this conception differs crucially from Western norms and particularly from the principle of separation enshrined in the American First Amendment of 1791 and (3) that, nonetheless, even though the term failed to find a place in the final document, numerous Assembly delegates repeatedly, if somewhat defensively, insisted that the polity they were fashioning was secular. Taken together, these three statements underline the point made in the first section that the story of secularism in India is studded with contradictions which need resolving. For instance, if there was no obvious Western inheritance, where did what some writers are fond of calling ‘Indian secularism’ come from?

Actually this question is quite easy to answer. The so-called Indian model of secularism does have antecedents, and they are easily identified.

One of these is the ancient tradition of Hindu kingship. Now this is, in its own right, a major field which has over a century of textual and philological scholarship behind it. Clearly, we can only aspire here to gloss this vast literature. Still, even a cursory reading makes it clear that a core strand of that tradition involved a dialectical relationship between kings and priests, in which both parties performed ritual functions designed to keep the gods on side and maintain the social equilibrium (Spellman, 1964; Gonda, 1969; Inden, 1981; Heesterman, 1985; Roy, 1994). Priests, belonging almost exclusively to the Brahmin caste, presided over sacrifices and rituals, while kings, generally drawn from the Kshatriya or ‘warrior’ caste, contributed to the spiritual welfare of the society by financing the construction of temples, making land grants to Brahmins, enforcing laws dealing with caste and protecting cows. Such actions indeed were mandated by Hindu scriptures that dealt with kingship. They were seen as an integral part of the king’s duty, his rajādhārma. But sometimes too kings participated directly in ritual performances including, especially early on, those associated with sacrifices (Dirks, 1976: 138). All this
suggests a close, even symbiotic relationship between state and religion in ancient India. And it appears, as time went by, to have grown stronger in line with the emergence, in the early Common Era, of a vein of Hindu thought that speculated that kings carried a spark of the divine. The sage Manu speaks of *rajas* being made up of parts of different gods; and in the *Mahābhārata*, Bhīṣma, asked by Yudishtira what separates rulers from ordinary mortals, replies that it is their ‘divine quality’ (Heesterman, 1985: 110). The traditional Hindu ruler, therefore, not only had a scriptural duty to promote the health of religion, but also the moral authority to do so. Did he deliver? Yes, most definitely. One can still see, in the far South, Hindu temples that date from medieval times, all products of patronage by powerful dynasties such as the Cholas and the Yadavas of Viyayangara (Kulke, 1997). Moreover, Indian kingdoms did not die out with the coming of the British; some hundreds survived until 1948, in the shape of the ‘princely states’. Recent research (Peabody, 1991; Schnepel, 2002, Copland, 2005) shows that these ‘princes’ continued through the colonial era to play a religious role – by for instance building and supervising temples, overseeing, with the help of specialised teams of bureaucrats, everything from their finances, and sanitary condition, to matters of observance.

This activist model of religious management would have been very familiar to members of the Constituent Assembly – not just from history books, but also from the living example of the princely states, some of which, incidentally, were also represented in the Assembly. That it influenced their discussions is evident, not only from published memoirs but from the fact that when members of the Assembly (over a quarter of whom were Brahmins) looked for a suitable analogy to describe what they were trying to achieve in respect of the state’s proper relationship with religion they hit upon the Sanskrit aphorism, *sarva dharma samabhava* (‘let all religions prosper’). Although possibly thinking more of Hinduism’s alleged capacity for tolerance, of which the above formulation is sometimes touted as evidence, than the example of Hindu kingship, the Brahmin philosopher and President of India S. Radhakrishnan was not that wide of the mark when he said of the constitution: ‘Secularism, as here defined, is in accordance with the ancient religious tradition of India’ (Chandra, 1999: 48).

The other antecedent of ‘Indian secularism’ was the tradition of governance introduced during the British colonial period. When the East India Company state assumed administrative responsibilities in the subcontinent, it initially tried to distance itself from indigenous religious life, fearing the political consequences that would follow if the ‘natives’ (especially the unruly Muslims) came to believe that the new government was bent on converting them to Christianity. However, this position proved unsustainable. As it took over large swathes of central and western India previously ruled by the Marathas, the Company found itself saddled, incongruously, with all the religious obligations
of the former Hindu polities: temple management; and a variety of ceremonial
duties that including honouring the gods during festivals. Increasingly it was
pressed as the governing authority into adjudicating disputes over processional
routes and sacred sites. When, as happened at Benares in 1809, these disputes
escalated into riotous violence, it had to intervene physically to restore public
order. Seeking ways to limit future disputes sucked it into the murky business
of trying to ascertain, with reference to scripture and local custom, what was
permissible religious behaviour. Ironically an Indian court, in 1954, concluded
that the example of the Company was ‘in itself sufficient to show that it is poss-
ible for a purely secular authority to control the administration of [temple] . . .
endowments’.25

Faced with intractable realities, the Company repositioned itself on the reli-
gious issue. It stopped talking of ‘non-intervention’ or ‘perfect toleration’,26
and began to describe its policy as one of ‘perfect neutrality’, or ‘perfect reli-
gious equality’. In 1831, the Company’s Directors in London defined this as
meaning that ‘no disabilities should exist by Regulation on account of religious
belief’,27 a wording that brings to mind Articles 16 and 29 of the constitution.
And in 1838 the Governor-General, Lord Auckland, minuted:

I never would afford the slightest countenance to any supposition that that protec-
tion which the British Gov[ernmen]t has promised to the free exercise of the reli-
gions of the people of India can be . . . narrowed down to a mere abstinence from
active persecution. What is due from the British Gov [ernment] is an honest and
efficient protection of the native religions.28

This pro-active stance towards the protection of religious liberties anticipates in
many ways that adopted a century and a quarter later by the constitution-makers
of the Assembly, who resolved, early on, that Fundamental Rights should be
made justiciable before the Supreme Court.29

True, some of these initiatives were wound back in the latter part of the
century. Badly shaken by the Great Revolt of 1857, the British, in 1863, with-
drew to some extent from temple management, devolving the primary respon-
sibility to local committees of Indian trustees. But officials continued to audit
these committees, regulate religious processions and issue permits for cow-
slaughter at ‘Id. And when after 1921 elected Indians, including, later on,
members of the Congress, began to participate in policy-making, pressure
quickly mounted for a return to a more interventionist style of religious govern-
ance, aimed at ridding the country of ‘backward’ social customs such as child
marriage, polygamy and the exclusion of people belonging to low castes from
temples. This resulted in a spate of progressive, but intrusive, statutes: the
Bombay Charitable and Religious Trusts Act of 1920; the Madras Hindu
Religious Endowments Act of 1927; the Child Marriage (Restraint) Act of
1929; the Bombay Devadasis (Protection) Act of 1934 and many others. The
tempo picked up even further in the 1940s, a prominent Brahmin politician from Madras describing the period as one of ‘Reform frenzy’.\(^{30}\) The legislative and administrative precedents established during the tenure of the Raj, especially by the Congress provincial governments of 1937–1939 and 1945–1947, were well known to and well understood by the members of the Constituent Assembly: not just because they were matters that belonged to recent history, but because many had been personally associated with that history. The average age of the key Drafting Committee was 61. All of its members, save one, had held ‘important positions in the British regime’ (Kashyap, 1988: 50). Revealingly, many, including Jawaharlal Nehru, then and later characterised the constitutional guarantees put in place for the protection of minority rights and cultures as measures borne out of a ‘policy of religious neutrality’,\(^{31}\) a phrase straight from the British Indian administrative handbook.

Precedents, then, were readily available. Moreover, the Indian constitution-makers felt comfortable prescribing protocols with which they were familiar. We should not underrate the importance, in politics, of the subtle force of inertia.

To be sure there were also some borrowings from further afield, notably from France and Ireland; and their imprint can be seen in the wording of the sections of the document that relate to religious freedom. But they have been overemphasised. One should not forget that over half of the final Indian document was lifted verbatim from the last colonial constitution of 1935. Such as they were, the constitution’s Western borrowings account for the rhetorical similarities between its and other national statements of citizen’s rights which have been construed by some scholars as expressions of secularism – but they do not explain the differences. To unpick the latter, one needs recourse to history. As K. M. Panikkar, whose curriculum vitae included a First in that discipline from Oxford, wryly pointed out to his fellow delegates, ‘we are not writing on a clean slate’.\(^{32}\)

**Politics**

A consistent theme of the Assembly discussions is that ‘Western-style’ secularism was unsuited to India because of its highly pluralistic and divided society: a strong state armed with effective powers of intervention was required to maintain social cohesion and inhibit sectarian conflict. The intervention by Munshi quoted above is an excellent example. According to many commentators, this perception explains why the constitution-makers opted for a different model. And some are adamant that it was the right model – that it was the uniquely flexible character of ‘Indian secularism’ that, more than anything else, saved the country from being overwhelmed by Hindu nationalism (e.g. Kaviraj, 1999: 296–297).
There is of course some validity in this interpretation; however, it does not represent the full picture. Not only does it overlook the historical legacies described in the previous section, but also, perhaps more importantly, it elides the political implications of the perception among the constitution-makers that Indian society was one steeped in religiosity. Remember, the men and women who wrote the document were politicians. Some had started out as organisers and agitators in the independence struggle; others had moved across, via party tickets, from careers in commerce and the professions. Either way they were now elected legislators, whose political futures depended upon winning and retaining the support of masses of voters. After 1950, that meant wooing a majority of the adult population, a demographic that contained, if the popular perception was correct, myriads of devout practitioners, many of them clearly disconcerted by the material changes sweeping society.

Early on, Congress, in its fight to free India from British rule, grasped the importance of building a mass-based party, and in looking to that end, found it useful and to some extent – at least in the case of Gandhi – natural to articulate the nationalist message to the un-Westernised sections such as the peasantry in language that could be understood and internalised by them. Almost inevitably, this came to include motifs and terms drawn from religion. In the late nineteenth century, Bal Gangadhar Tilak in Maharashtra politicised the Ganapati festival, and Aurobindo Ghose invoked the Mother goddess to mobilise the young men of Bengal; later, the Mahatma donned the attire of a Hindu ascetic, championed the Muslim Khilafat movement and drew political lessons from the Gita. To be sure, not all Congressmen approved of this folksy strategy – the young Jawaharlal Nehru being one. But the ‘secularists’ in the party, if we can call them that, were silenced by its dramatic success. By the 1940s, Congress had recruited over four million, mostly Hindu, members. And increasingly elements within the organisation began to push for changes to the party platform to give formal recognition to this constituency. As veteran Party member Salem barrister V. Krishnamachari observed ruefully in 1953: ‘The real truth is that many of the so-called Congressmen in Tamil Nadu are only communalists in Congress garb’. By this time, though, several much more conspicuously communal parties, such as the Hindu Mahasabha and the Sikh-based Akali Dal, had come into the field, further raising the stakes.

The constitution-makers at Delhi were graduates of a tough, confrontationist, political world. Although they were not by any means without ideals, or lacking in noble aspirations for their country, they understood from experience that unless they engaged with the electorate on its own terms they would not survive. This meant crafting a document that, inter alia, allowed the political state to engage actively with that great common denominator, religion. Nor should we forget, lest we err on the side of cynicism, that many of them, for instance Rajendra Prasad, who became his country’s first President, and
Deputy Prime Minister Sardar Vallabhbhai Patel, were deeply pious individuals. In 1951, Prasad and several senior members of the inner cabinet, ignoring Nehru’s advice, attended the consecration of the rebuilt Somnath temple at Dwarka in Gujarat. If Nehru’s successor, Lal Bahadur Shastri, is to be credited, most of the Delhi political elite of that time regularly consulted astrologers.34

Did the Constitution serve? Well, certainly it provided no barrier to exploiting religious beliefs and affiliations for purposes of political mobilisation. After Independence, the Congress Party took as its electoral symbol the cow-and-calf, knowing how it would resonate with Hindu voters,35 and honoured the spirit of Article 48 by enacting legislation in several states during the early 1950s prohibiting cow slaughter.36 Home Minister G. B. Pant thought Mysore Premier S. Nijalingappa’s decision to make a public appearance at the 1957 Dasehra festivities there ‘well advised’ from a political point of view.37 Bengal Chief Minister B. C. Roy was warmly praised by his colleagues for smart opportunism when he contrived, in 1958, with a state election in the wind, to be photographed by the Statesman newspaper sharing a ‘private’ moment of devotion in the company of the Imam of a mosque.38 And Madras Premier Rajagopalachari’s call for the inhabitants of the drought-stricken southern state to pray for rain – which was followed almost instantly by a monsoonal downpour – certainly did his reputation with the electorate no harm. One constituent gushed: ‘Blessings on your head and on your Ministry. Your prayers have been heard in full measure’. Another confided to Rajaji that the breaking of the drought had come as no surprise to him, ‘because I knew full well that [any] follower of “Githa” … cannot be untrue in his own words’.39 Even the agnostic Nehru bowed to public religious sentiment by including an instruction in his will that some of his cremated remains should be interred at the confluence of the Ganga and Jumna rivers at Allahabad – a site sacred to Hinduism. Knowing the voters as they did, all Indian politicians of that era felt obliged, regardless of their personal preferences, to at least present themselves to the public as believers.

Likewise, political power-brokers increasingly based their strategies for attracting votes on assumptions about constituents based on their ‘community’ affiliation. The best guarantee of electoral success, it was felt, lay in identifying and mobilising such ‘vote blocs’ by, for example, choosing a candidate from the group. Thus, when a by-election came around for the Amroha Lok Sabha seat in 1963, Krishna Menon asked his fellow Union minister Ibrahim Hafiz Mohamad to stand for Congress against the incumbent (former Congressman J. B. Kripalani). ‘His calculation was that Ibrahim’s candidacy would ensure Kripalani’s defeat by ensuring the Congress the 38% Muslim vote in the constituency.’40 ‘Religious freedom since the start of the 20th century’, avers Mahajan, ‘has been interpreted as including the right of religious communities to participate [as groups] in political and public life’. However, he notes, insightfully, that this
understanding has led to different results in India. ‘Here it has enhanced the autonomy of religious denominations and privileged the claims of religious identity over those of equal citizenship’ (Mahajan, 1998: 77–78).

However, the appropriation of religion for political ends did not stop there. As the competition for bloc votes heated up, politicians of all colours, including, not least, top leaders of the post-Nehruvian Congress, began to play the religious card in an effort to poach wavering blocs and sow discord among opponents. In the late 1960s, desperate to prise the Sikhs away from their attachment to the Akali Dal, the Congress party struck a deal to back the Lachman Singh Gill Ministry in the Punjab in return for Lachman agreeing to distance himself from the separatist-minded Dal, which, to some Sikhs, showed that Congress was prepared to ‘interfere with Sikh religious matters for political reasons’. Then, it was the turn of Indira Gandhi. Confronted in the early 1970s with a rising tide of grass-roots unrest, Nehru’s daughter calculatedly played to the fears of the Muslims, and other minorities, by encouraging the perception that oppositional protests would lead to mob violence; and after regaining power in 1977 she tried to destabilise the still troublesome Sikh government of the Punjab by covertly funding a dissident faction of the Akali Dal led by the charismatic Sikh religious leader Sant Jarnail Singh Bhindranwale, a strategy that backfired with calamitous consequences for the people of Punjab and, ultimately, for Indira personally. And so it went on. Rajiv Gandhi, who succeeded his mother as Indian Prime Minister in 1984, at first gave the impression that he might possibly eschew the divisive politics of religion; but Rajiv too soon reverted to the mould. In 1989, he launched his campaign for a second term at Faizabad, just a short drive from the city of Ayodhya, revered by Hindus as the birthplace of the god-king Rama, with a speech promising voters that his return would lead to the establishment of Ram Rajya in India (Upadhyaya, 1992: 845). Later, he balanced this act of appeasement with another to conciliate the party’s traditional Muslim supporters – imposing a blanket ban on Salman Rushdie’s novel, Satanic Verses.

Now, appeasing minority groups was not, per se, inconsistent with the letter and spirit of the constitution. However, the constitution also stressed, as we have seen, the principle of equal treatment; and in the event, the Indian state took a much more paternal interest in some religions than others. For instance Christians were given a pretty raw deal. In the Constituent Assembly, Christian delegates took Minorities Sub-Committee Chairman Patel at his word and withdrew their initial demand for reservations in the legislatures and the services. The understanding was they, along with the other minorities, would be looked after. Hence their surprise when it was revealed that reserved seats and other concessions would be given on a temporary basis to the Scheduled Castes, the Scheduled Tribes and even the Anglo-Indians (who by means qualified as socially backward) but that these measures would not apply to Untouchables who had
converted to Christianity. And that was just the beginning. Christians increas-
ingly found themselves on the outer politically: passed over for tickets and ignored for appointments to ministries. In Madras, for example, their representa-
tion in the Assembly fell by half (from 11 to 6) after the election of 1951–1952. Especially in Madhya Pradesh but elsewhere too, tribal Christians suffered ‘har-
assments and disabilities’; while Christian missionaries came under govern-
mental pressure to rein in their proselytising (something, as we have seen, ostensibly guaranteed under the constitution). President of the Catholic Regional Commit-
tee, G. X. Francis, protested that there had been a ‘collapse of secular structure in that part of the country’.43 And when the Union government in 1959 agreed to extend the constitutional concessions given to the Scheduled Castes and Tribes for a further 10 years, the benefits were again denied to Christians from low-caste backgrounds: ‘we Indian Christians feel that we are . . . being discrimi-
nated [against]’, fumed General Secretary of the All-India Council of Indian Christians Y. Santram.44 Sikhs, too, felt short-changed by Sardar Patel’s assur-
ances and were unimpressed by the explanation added at the last moment to Article 25 (2), which classified them as de facto Hindus rather than as members of a separate faith – so much so, that the two Akali Dal delegates, Sardar Hukam Singh and Sardar Bhopinder Singh, refused to sign off on the document (Chiriyankandath, 2000). However, it was ironically the majority Hindu community that bore the brunt of governmental interventionism. While Hindu personal law was significantly overhauled by a series of central laws enacted during the 1950s (the Hindu Marriage Act, the Hindu Succession Act, the Hindu Minority and Guardianship Act and the Hindu Adoptions and Maintenance Act), that of other faiths, notably Islam, were conspicuously left alone. Specifically, shari’a law was expressly quarantined at the direction of Prime Minister Nehru. ‘I do not think one wants to change the law for a particular com-
munity by the vote of other people’, he declared in December 1948 (Chiriyan-
kandath, 2000: 14). To be sure the Prime Minister’s guarantee was well-
intentioned: he felt it was imperative to prove to the 40 million Muslims who remained in India – and who were being portrayed as Pakistani Fifth Columnists by Hindu nationalist politicians and allied sections of the press – that their lives and culture were safe within the bosom of ‘secular’ India.45 Still, it was a mistake, for it provided ammunition to opponents of the original, eventually aborted, Hindu Code Bill, who were able to contend with President Prasad that:

If its provisions are sound and beneficial . . . there is no reason why its operations should be confined to one community and why the other community that suffers from the same or similar . . . deleterious personal laws and customs, should be deprived of the benefits thereof.46

And it ensured that Article 44 of the constitution, which requires the state to introduce a uniform Civil Code for all citizens, would remain a dead letter.
Ironically, when the Indian state did, in 1986, finally take it upon itself to meddle directly with Muslim personal law, it was in the shape of a retrospective enactment (the Muslim Women’s Protection of Rights and Divorce Act) that sought to conciliate Islamic hardliners by overturning a Supreme Court ruling in the Shah Bano case — hailed by women’s lobbyists as a ‘victory for secularism’ — that Muslim divorcees were entitled to claim maintenance under Section 125 of the Code of Criminal Procedure.\(^47\)

In his classic study of *Politics in India*, published in 1970, Kothari characterised the Indian political leadership of the day thus: ‘The political elite constitutes the new priesthood of modern India’. Interestingly, Kothari did not believe that the increasing resort to ‘exemplary and saintly styles’ in politics constituted a rejection of secularism; he saw it rather as evidence that political modernity was starting to break out of its middle-class mould (Kothari, 1970: 265). In the light of the above, this view seems questionable. Still, Kothari was right to emphasise the instrumentalist nature of much of this moralistic behaviour.

**Perspectives**

One of the enduring myths surrounding the history of the modern Indian republic is that the country’s constitution represented some kind of democratic consensus. The truth is that the document was created by a coterie of elite politicians and bureaucrats with little input from a largely uninvolved public. The original Constituent Assembly was made up of representatives of the provincial legislatures (elected in 1946 by about 30 per cent of the adult population) and nominees of the ruling princes. And following the withdrawal of the Muslim League delegates in 1947 replacements were simply co-opted though with an eye to maintaining the communal balance and adding expertise. It can scarcely be described as a democratic body. Moreover, most of the Assembly members contributed little to the eventual outcome. The large bulk of the work was done by subcommittees, of which the Drafting Committee was the most important. Key decisions were taken in camera ‘behind the scenes’ (Austin, 1966: ch. 1). As for wider public opinion, it was hardly consulted. The Assembly held no public hearings. Drafts were published, but only in expensive English editions.\(^48\) Press reportage was desultory. As far as the American Consulate in Bombay could see, ‘the general public attitude toward the [emerging] political structure of the new Indian Government is one of apathy’.\(^49\) In essence, the constitution was forged by about a dozen, mainly Congress, politicians: Ambedkar, Nehru, Prasad, Patel, Munshi, Panikkar, Amrit Kaur, Sir Alladi Krishnamaswami Ayyar, C. M. Ananthasayanam Ayyangar, T. T. Krishnamachari, N. Gopalaswamy Ayyangar, Lakshmi Kanta Maitra and H. C. Mookherjee (Pylee, 1960: ch. 9; Chiriyankandath, 2000: 6–8). Accordingly, the omission
of the term ‘secular’ from the Preamble cannot have been an accident; it has to have reflected the will and desire of this coterie, and in particular of Nehru, who could surely have persuaded the Assembly to accept Shah’s amendment if he had so desired.

We are back with our initial set of puzzles. Nehru appears to have had little in common, intellectually or temperamentally, with the men whose views on the need for the constitution to take account of the religious temper of Indian society I quoted earlier. He himself was not at all religious. Publicly he always claimed to be agnostic (Harper, 1961: 103), but M. J. Akbar (1989: 301) for one thinks he was really an atheist. He abhorred ‘communalism’, refused to let religion influence his political choices, and showed little patience with ‘fanatics’. In 1926, he wrote to a Muslim associate Syed Mahmud: ‘I think what is required in India most is a course of study of Bertrand Russell’s books’, adding that he believed religion was ‘killing the country’. Heckled by orthodox Hindus at Varanasi in 1936, he left the podium and charged into the crowd, telling them: ‘Go to hell you Benares people’ (Akbar, 1989: 183, 261).

Why did Nehru want the term ‘secular’ suppressed? Ironically, it was precisely because he believed so passionately in the concept and practice of secularism in its original affirmation. Bilgrami (1999: 350) has proposed that Nehru’s grasp of secularism was ‘in many ways muddled and mistaken’. I venture to disagree. He knew perfectly well what the term meant. He was, as his stray remark to Syed Mahmud indicates, extremely well-read in the area of Western political philosophy. And that was the problem. Knowing, perhaps better than any of his contemporaries, the history of Western secularism and how much, especially in the American context, the doctrine reflected a particular kind of political environment, shaped by the religious conflicts and persecutions of seventeenth century Europe, a particular kind of religious mentality and a particular mode of (Protestant) worship, it was clear to him that Enlightenment secularism – much as it appealed to him personally – simply would not do for India. It was not just that Indian society was steeped in religion, or that religious life in India perpetually spilled over into the public area. It was also that there was a tradition of state intervention in religion. Religious stakeholders (and people at large) looked to the ruler, to the sarkar, to protect public worship. The Mahatma might have said that religion was a ‘personal matter which should have no place in politics’ (Chandra, 1999: 27) but that was definitely not what most Indians thought, and Nehru felt compelled, as a democrat, to respect the majority view.

Secondly, he was a man who loathed hypocrisy and deceit. In the matter of secularism, the Prime Minister was not about to be a party to intellectual fraud. As already noted, he rarely used the word himself in the Assembly; and when he did bring it up it was generally to chastise his colleagues for doing so wrongly. ‘Another word is thrown up a good deal, this secular State business’,
he carped in August 1949. ‘May I beg with all humility those gentlemen who use this word often to consult some dictionary before they use it?’ Later, in a letter to chief ministers, he mused: ‘We have talked about a secular State. Often enough, those who have talked about it most have understood it least’. Otherwise, though, he kept conspicuously out of the debate. I think this was deliberate. Keeping silent allowed him to keep faith with his principles. If he had intervened in a serious way, surely he could not have resisted explaining, at length, to the house, exactly what secularism of the Enlightenment kind entailed and what was implied, specifically, by the doctrine of separation – a doctrine which, he knew, was never going to acceptable to the Assembly.

Nevertheless, the moderniser in Nehru found this conciliation of the god-fixated Indian mentalité irksome. Although not a slave to Western thought as such, he did believe ferociously in the project of modernity, and it was largely due to his insistence that the Indian Constitution recognised and made room for a centralised state with wide-ranging powers. Nehru intended the new Union government he headed to be an instrument of progress (Chatterjee, 1993). Of course this programme rather tied his hands on the secularism front since he could hardly on the one hand endorse the principle of a strong state, and on the other call for a restriction of its powers solely in regard to religion. Indeed, to constitutionally inhibit the state from upholding social cohesion would put the whole modernising enterprise at risk. ‘It would [allow free rein to] ... the divisive tendencies which have always existed in Hindu society’; at worst, ‘India would be divided into a thousand fragments and become weak’. However, it was in fact more complicated than that, since his devotion to the deities of Science and Reason made him an ardent admirer – their history of imperialism notwithstanding – of the Western civilisations which had given these things to the world. Partly for this reason (and partly, too, because the West was powerful, and it made sense to keep on friendly terms with great powers) Nehru was desperately keen for his new country to be well thought of overseas, especially in Europe and America. So, when in the early 1950s the Western press and the Western diplomatic corps in India began to say nice things about India as a ‘secular state’, Nehru began to cautiously endorse this perception. ‘India has many religions’, he told delegates to the 1955 Avadi Congress session, ‘but it is a secular State giving freedom to all religions to function and favouring none’. This fits with Chatterjee’s contention that the continuing use of the term in Indian political discourse can be seen as ‘an expression of the desire of the modernizing elite to see the “original” meaning of the concept actualized in India’ (Chatterjee, 1997: 234). Even so, something of the old scepticism stayed with him until the end. In 1958, in a conversation with French writer André Malraux, Nehru confessed that his greatest challenge
since Independence had been trying to create ‘a Secular State in a religious country’ (Guha, 2007: 233).

In the end, does it really matter so much that secularism has been interpreted in India to mean something that it is not? After all, what’s in a name? Several Indian scholars – people on the whole strongly committed to secularist ideals – have taken that accommodating line. Thus Rajeev Bhargava thinks that the concept of secularism is capable of being endlessly adapted to fit local religious-political settings. ‘If we abandon the view that political secularism entails a unique set of state policies . . . which provide the yardstick by which the secularity of any state is to be judged’, he avers, ‘we can understand why, despite “deviation” from the ideal, the state in India continues to embody a model of secularism’. Implicit in this kind of analysis is that there are many potential models of secularism. Bhargava (1998: 519, 515) accepts that ‘India’s’ is interventionist but does not believe that state interventionism is problematic so long as it is wisely exercised: ‘the [well-administered] state intervenes, or refrains from intervening, depending on which of the two better promotes religious liberty and equality of citizenship’. Another fan of what has been called contextual secularism is Yildrim: ‘secularism’, he asserts, ‘is not inherently anti-religion and it is inherently contextual’. Accordingly, genuine secularism is ‘a possibility in any society’ (Yildrim, 2004: 905). And the same holds, broadly, for Cossman and Kapur. They get there via a more pragmatic route (by arguing that any attempt to reconstruct Indian secularism around the principle of separation is largely pointless because it has no hope of success). Still, their preferred alternative, built around the principle of equidistance, has a familiar Indian ring to it: ‘Therefore, rather than calling for a more complete separation of religion and politics, we turn to secularism [defined] as . . . equal respect for all religions’ (Cossman & Kapur, 1997: 158).

One can see why the notion of contextual secularism is appealing to liberal democrats, for it appears to provide a magical formula for squaring the circle. While it allows the state in India to be religion-orientated, it also commits it to the defence of individual religious liberties and the promotion of toleration, important liberal (not to say universal) values. But I have two objections to this modus vivendi. One is purely semantic. Concepts are only useful to the extent that they conform to a generally agreed meaning. Stretch them, and a point is reached sooner or later when they cease to be meaningful and become meaningless. Secularism minus separation falls, to my mind, into the latter category.

The second is more substantial. Notwithstanding that the term was deliberately omitted from the Preamble, the Indian Constitution was immediately hailed as a secularist charter. Yet what this signified – what was entailed, philosophically, in labelling a state as secularist – was never really discussed, either in the Assembly or in the media. Politicians and people were left to
construe it pretty much as they wished. As we have seen, most chose to equate it with the formula *sarva dharma sambhava*: ‘let all faiths prosper’. However, the Hindu Right, perceiving a golden opportunity, at once proceeded to give this ancient, and outwardly inclusive, aphorism a subtle twist. A modern *democratic* state, contended the Hindu Mahasabha, was obliged to distribute its patronage *pro rata*, in a way that recognised the ‘primary’ claims of the majority. In the words of its President in the 1940s, L. Bhopatkar: ‘the Mahasabha has from the beginning advocated a Secular Democratic State, not only in name but in reality, that is to say, a State where the rule of the majority shall prevail’.54 In contemporary India this deft slight-of-hand has enabled Hindu chauvinists in the Bharatiya Janata Party (BJP), which led India’s coalition government from 1998 to 2004, to project its majoritarian policy of *Hindutva* not only as democratic, but also as *secular* – as an embodiment of true or ‘positive’ secularism as against the ‘pseudo-secularism’ of the Congress, which it accuses of having one rule for the Hindus and another for the Muslims. More broadly, it has lent a veneer of legitimacy to the murky machinations of the Hindu communalist rabble rousers found in the ranks of the BJP and its affiliates. In Upadhyaya’s blunt but accurate summation, the ‘hiatus . . . between the true meaning of secularism and the variant of secularism . . . espoused in India’ has allowed ‘communalists to masquerade as secularists’ (Upadhyaya, 1992: 821, 852).

This is certainly not an outcome that Nehru, Ambedkar and the other Indian Constitution-makers could have foreseen, or one they would have ever countenanced. Arguably though, they helped make it possible.

Notes
1. See e.g. the judgement of the Supreme Court in *Kesavananda v State of Kerala*, *All India Recorder* [hereafter AIR], 1973, Supreme Court [hereafter SC]: 1462–1463.
6. Amended and elaborated later by a subcommittee of the All India Congress Committee (AICC) and ratified at the AICC’s Bombay meeting of 6–8 August 1931, Nehru Memorial Museum and Library [hereafter NMML], AICC Papers, file G-60 of 1945–1946.
10. There was, it must be said, considerable opposition in the Fundamental Rights Committee to the framing of the clause in this way. Some members feared it could inhibit ‘future social legislation’ and ‘would be wide enough to cover cow-killing, music before mosques, etc’, religious practices that had caused endless trouble – often culminating in bloody communal riots – during the colonial period. Rajkumari Amrit Kaur to Sec., Constituent Assembly, 20 April 1947, and note by Sir Alladi Krishnamaswami Ayyar dated [April] 1947, NMML, AICC Papers, CL-5 of 1946–1947.

11. 68 S.C. 461 and 82 S.C. 1261 The first case turned on whether it was constitutional for public schools to provide facilities for the teaching of religion, albeit on an optional basis, during school hours. The second involved the constitutionality of the New York School Board of Regents’ decree that the school day in the city’s public schools should begin with a common classroom prayer.

12. Embassy to Secretary State Washington (telegram), 5 December 1949, U.S. National Archives and Records Administration [hereafter NARA], State Department Central Files, decimal file 845.011/12-549.

13. AIR 1956 Madras: 491 at 390: What the judge may not have known is that the Constituent Assembly specifically rejected the American model, on 6 December 1948 voting down a motion from Professor Shah for the insertion of a clause replicating the first clause of the American First Amendment in Article 19. CAD, 7: 839.

14. Moon, Dr babasaheb Ambedkar’s Writings and Speeches, 13: 447.

15. See e.g. statement by Sri Bharat Dharma Mandal dated 24 December 1929, NMML, AICC Papers, file G-21 of 1929.

16. CWC resolution, October 1937, NMML, AICC Papers, file G-60 of 1945-6.


18. In an explanation inserted in 1949, the reference to ‘Hindus’ was provocatively construed as referring also to ‘persons professing the Sikh, Jaina or Buddhist religion[s]’.


23. The phrase ‘In God we trust’ is not only printed on banknotes but also graces the walls of many US public buildings. See, for a list of other idioms and practices that fall within the province of what Bellah has called America’s ‘civil religion’, Mahajan (1998: 75–76).

24. See e.g. speech of 23 November 1948 by Mohamad Ismail Sahib, CAD, 7: 540–541.


26. Officiating Judge, Benares, to Registrar, Nizamat Adawlat, 5 February 1808, Br. Lib., O[riental and] I[ndia] [Office] [Collections], F/4/581/14152.


29. Art. 32 allows citizens to approach the Supreme Court directly if they feel their Fundamental Rights have been infringed.


33. V. Krishnamachari to C. Rajagopalachari, 10 November 1953, NMML, Rajagopalachari Papers, V Instalment, subject file 117.

34. Shastri to C. Rajagopalachari, 24 July 1964, NMML, Rajagopalachari Papers, IV Instalment.

35. When the Congress split in 1969, ownership of this evocative symbol was hotly contested. The Electoral Commission eventually adjudicated that it belonged to the breakaway Congress (I). It then became the subject of a court challenge by the Janata coalition on the grounds that it was a religious symbol and thus illegal under the Representation of the People Act 1951. However, in 1975 – in a case overshadowed by the Indira Gandhi government’s declaration of an emergency – Justice Ray of the Supreme Court rejected the claim. *Keesing’s Contemporary Archives*, 16 January 1976, p. 27526.

36. Although these laws were framed in the name of cow protection, they also prohibit the killing of calves, bulls and bullocks. The Bihar Act of 1955 refers to all ‘bovine cattle’, a formulation wide enough to include buffaloes.


40. Ambassador, New Delhi, to State Department, 5 June 1963, NARA, State Department Central Foreign Policy Files, RG 59, 1963, POL 18, Box 3931.


42. In 1983 Bhindranwale broke with his erstwhile patrons and put himself at the head of the Khalistan movement. Holed up in the Golden temple in Amritsar he looked impossible to touch, but Indira Gandhi authorised a paramilitary assault on the temple, the infamous ‘Operation Bluestar’. The assault succeeded in its immediate objective but enraged the entire Sikh community. In 1984, Indira was assassinated by two of her Sikh bodyguards.

43. A particular sore point with the Christian minority in central India was the Christian Missionary Activities Inquiry Committee appointed by the Madhya Pradesh Congress government of R. S. Shukla in 1954, which reported in July 1956. Chaired by a committed Hindu, Bhawani Shankar Niyogi, its terms of reference were loaded and the questionnaire distributed by the Committee was reckoned to be prejudicial. Quoted in Nehru to R. S. Shukla, Premier of MP, 9 April 1954, Gopal, *Selected Works*, new series, 25: 229; and Nehru to G. B. Pant, 13 January 1955, Gopal, *Selected Works*, 27: 439.

44. General Secretary, All-India Council of Indian Christians, to the President of India, n.d., NMML, AICC file PG-36 of 1959.

45. Acts of violence against Muslims, some condoned by the authorities, remained widespread, particularly in Uttar Pradesh. The perpetrators were often embittered Hindu refugees from Sind and West Punjab. For a Muslim perspective see the

46. Note by Prasad dated 15 September 1951, NMML, Rajagopalachari Papers, V Instalment, subject file 189.

47. For the background of the case, and the Court reasoning, see AIR 1985 SC 945.

48. Ray E. B. Bower, American Consul Madras, to Secretary State, Washington, 13 March 1948, NARA, State Department Central Files, decimal file 845.00/3-1348.

49. John J. Macdonald, American Consul-General Bombay, to Secretary State, Washington, DC, 21 May 1948, NARA, State Department Central Files, decimal file 845.00/5-2418.


53. Speech of 10 January 1955, NMML, AICC file G-1(B) of 1955.


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