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Reimagining Secularism

Respect, Domination and Principled Distance

RAJEEV BHARGAVA

It is widely recognised that political secularism, virtually everywhere in the world, is in crisis. It is also acknowledged that to overcome this crisis, secularism needs to be reimagined and reconceptualised. This article takes the first few steps towards doing so. It argues, first, that we need to move away from the standard church-state models of secularism and begin to focus instead on secularism as a response to deep religious diversity. Second, it claims that diversity must be understood as enmeshed in power relations, and therefore the hidden potential of religion-related domination must be explicitly acknowledged. Third, these two moves enable us to view secularism as a response to two forms of institutionalised religious domination, inter- and intra-religious.

This way of conceiving secularism rebukes the charge that secularism is intrinsically anti-religious. Secularism is not against religion; it opposes institutionalised religious domination. Finally, the article argues that this conception entails that a secular state shows critical respect to all religious and philosophical world views, possible only when it adopts a policy of principled distance towards all of them.

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In "Giving Secularism Its Due", written in 1991, which eventually appeared in a special edition of EPW (Bhargava 1994), I introduced a distinction between ethical and political secularism. Ethical secularism refers to a comprehensive normative perspective by which to lead an individual or collective life, or both. It is a well-reasoned but partly speculative perspective on how best to lead one's life, here and now, in this-world, on the assumption that all ends pursued by humans pertain only to this-world and this time. Politico-moral secularism or political secularism is a perspective on earthly restraints, coercive or non-coercive, that can be placed in the pursuit of the good life, regardless of whether or not one is an ethical secularist something on which both the secularist and the religious might agree. Indeed, it might be an object of consensus among different kinds of secular and religious believers. One objective of the 1991 paper was to show that political secularism neither entails nor presupposes ethical secularism. It is simply false to believe that in order to be a political secularist, one had to be an ethical secularist.

The paper also clarified the distinction between the process of secularisation and political secularism, so far largely neglected by political theorists. I argued that political secularism is frequently needed precisely in those societies where people belonging to multiple religions or religious believers and philosophical secularists all coexist, or are in prolonged conflict. A fully secularised society would not need a secular state because, in some form, it already has it. Political secularism, I argued, is needed precisely in conditions where complete secularisation is impossible, unavailable as an option, or undesirable. My focus, then, was not on secularisation. Therefore, I did not specify its meaning. But I implied that it refers to a social process that gets underway and remains in motion largely, but not wholly, independent of intentional human action. Secularisation was not launched as a programme of collective action. It has occurred – if, where and when it has – because of the unintended consequences of human action. Indeed, in Europe, it appears to have happened as a result of changes within religion, induced by religious people out of very religious motives. Secularism, on the other hand, is a collective normative project. It sets out a plan of desirable collective action. It is probable that the more successful its realisation, the more secularisation there is. However, to some extent secularisation may occur even without secularism, perhaps despite its failure. I also implied that secularisation had a certain negative relation with religions – the more one is present, the less available the other will be, and vice versa.

The theory of secularisation is currently in crisis. The crisis facing secular states and secularism is graver. My 1994 article spoke of the challenge faced by secularism in India. But well before its crisis in India, secular states and the doctrine underpinning them had begun to come under strain elsewhere. In short, Western conceptions of political secularism do not appear to have travelled well in other societies. More importantly, such conceptions and the secular states they underpin are coming under strain even in Europe, where, until recently, they were believed to be secure and firmly entrenched. Why is this so? It is true that the substantive secularisation of European societies brought about the extensive secularisation of European states; regardless of their religious affiliation, citizens have a large basket of civil and political rights unheard of in religion-centred states, past or present. Nevertheless, two problems remain.

First, migration from former colonies and intensified globalisation have thrown together in Western public spaces Christian, Islamic, and pre-Christian faiths such as Hinduism (Turner 2001). The cumulative result is unprecedented religious diversity, the weakening of the public monopoly of single religions, and the generation of mutual suspicion, distrust, hostility, and conflict. This is evident in Germany and Britain, but was dramatically highlighted by the headscarf issue in France, the Cartoon affair in Denmark, and the murder of film-maker Theo Van Gogh in the Netherlands shortly after the release of his controversial film about Islamic culture (Barker 2004; Bowen 2007; Buruma 2006; Freedman 2004; Modood et al 2006).

Second, despite substantial secularisation, in some European states inequities resulting from the formal establishment of the dominant religion have done little to bolster better inter-community relations or reduce religious discrimination. With the deepening of religious diversity, the religious biases of European states have become increasingly visible. European states have continued to privilege Christianity in one form or another. They publicly fund religious schools, maintain clerical salaries and real-estate holdings of Christian churches, facilitate the control by churches of cemeteries, and train the clergy. In short, there has been no impartiality within the domain of religion, and despite formal "equality", this privileging of Christianity continues to have a far-reaching impact on the rest of society (Klaussen 2005). Even the widespread belief regarding the existence of a secular European public sphere is based largely on a myth. As a result, the formal or informal establishment of a single religion, even the weaker variety of establishment, continues to be part of the problem.

Non-Western Secularism

This challenge to secularism has come not only from politicians, civil society groups and clerics, but also from academics. Critics argue that the conceptual and normative structure of secularism is itself terribly defective, that there is something wrong with the ideal itself. Secularism has been linked to a flawed modernisation, the repressive structures of the nation state, to an indefensible conception of science and rationality, and to an excessive individualism. It has been charged for trivialising faith and being insensitive to religious believers.

Its failure to be impartial and universal is linked to its Christian biases.

I agree that secular states are in crisis, that the problems of secularism are real and go deep. However, it is the contention of this article that secularism is not irredeemable, that while many of its conceptions are flawed, one can still reimagine, redefine, and rescue it. This is crucial because there is still no alternative to secularism. Under present conditions, it continues to be badly needed.

The criticism of secularism, I argue, looks indefeasible only because it has focused on a few doctrinal versions of Western secularism. I argue that it is time the focus is shifted away from doctrines and to the constitutional provisions and normative practices of a wide variety of states, including the best practices of non-Western states such as India. Once this is done, we will begin to see secularism differently, and might realise that what is needed is not an alternative to secularism, but rather an alternative conception of secularism.

Identifying a defensible alternative conception is not always easy. It can be done only if we make two crucial moves: First, jettison the standard church-state models and focus instead on secularism as a response to religious diversity. Second, as already mentioned, pay more attention to normative practices than to existing doctrinal formulations. Allow me to elaborate these points.

Today, most societies are characterised by religious diversity. The pressing question before us, then, is how to handle this diversity and the problems that accompany it. What does religious diversity mean? To begin with, it means both diversity of religion and diversity within religion. Diversity of religion exists in a society when it has a populace professing faith in, say, Christian, Jewish, or Islamic ideals. A society has a deep diversity of religion when its people adhere to faiths with very diverse ethos, origins, and civilisational backgrounds. This happens, for example, when a society has Hindus and Muslims, or Hindus and Jews, or Buddhists and Muslims, and so on. The second kind of diversity exists within religion, and is of two kinds. The first, horizontal diversity, exists when a religion is internally differentiated. For example, different confessions, denominations, and sects exist within Christianity, and Muslims are divided into Shi'a, Sunni, Ismaili, Ahmedis, and so on. Likewise, Hindus could be seen to be differentiated into Vaishnavite and Shaivite, and so on.

Religions are characterised, however, by yet another kind of diversity, which may be called vertical diversity. Here, people of the same religion may engage in diverse practices that are hierarchically arranged. A religion might mandate that only some may engage in certain kinds of practices, which other co-religionists are excluded from. For example, caste-ridden Hinduism makes a distinction between pure and impure practices. Practices performed by certain castes are pure, and members of other castes are excluded from them. For instance, women or dalits may not be allowed entry into the inner sanctum of temples, and in many cases even within the precincts of an upper-caste temple. This example brings home a point I ought to have made at the very outset of this discussion. Every form of diversity, including religious, is enmeshed in power relations. If so, endemic to

every religiously diverse society is an illegitimate use of power, whereby the basic interests of one group are threatened by the actions of another. It further follows that inherent in religiously diverse societies is the possibility of both inter- and intra-religious domination – a broad term that encompasses discrimination, marginalisation, oppression, exclusions, and the reproduction of hierarchy. (Two other forms of domination are also possible: the domination by the religious of the non-religious and the domination of the religious by the non-religious.)

This shift allows me to conceive secularism as a response to a deeply distorted form of sociability within the domain of religion, as a normative stance that seeks to facilitate better social relations within and across religious groups. Secularism in this view is not against religiosity *per se*, but is opposed to institutionalised religious domination. Allow me to draw an analogy with one of Karl Marx's better known ideas. Marx had claimed that in order for production of material goods to take place, humans must enter into relations with one another – production relations. He further claimed that such production frequently takes place within structures of exploitation and dominance. His entire project might be viewed as an attempt to emancipate the production process from distorted human relations. Likewise, one might view the production of symbolic goods as requiring certain relations of production. However, the production of most symbolic goods, including religious goods, almost always takes place under conditions of domination within and between religions. Secularism might then be viewed as an attempt to emancipate the production of symbolic goods, values and services from inter- and intra-religious domination. That is what I mean when I say that secularism is not against religiosity, but fiercely opposes institutionalised religious domination. To rescue secularism requires a profound reconceptualisation of what secularism means.

A second, equally crucial, move to reimagine secularism is this: a set of distinctions must be drawn and kept in mind to retrieve a defensible secularism. First, we need to distinguish between the entire complex of practices and institutional arrangements that either connect religion to, or disconnect religion from, the state, and a subset of these practices and arrangements that embody norms – that is, an implicit sense of how states and religions should relate to one another. Whereas the former includes the normative and the non-normative and operates at the practical level, the latter operates only at the normative level. Second, these norms are then articulated in representations and *ad hoc*, unstable reflections found in statements of politicians, laws enacted by legislators, executive decisions, judicial pronouncements, and constitutional articles. These articulations operate at the discursive level. Finally, the normative conceptions implicit in these practices and either subtly or explicitly articulated in legal and political discourse are then posited as a normative ideal that is sometimes expressed as ideology and doctrine, and that occasionally becomes an object of theoretical enquiry, thus operating at both the doctrinal and the theoretical levels. The distinction between a comprehensive practical and the exclusively normative level is important, because identifying secularism with

any particular practice or institutional arrangement that relates religion and the state will not do. True, secularism needs to be institutionally grounded, but to distinguish secular from religion-centred states and, even more important, to articulate a critical, normative secularism, the distinction between the normative and the non-normative is crucial.

More to the point, I argue that secular norms conceived at the doctrinal and theoretical levels are by now highly restricted and inadequate. This has happened because these levels have been colonised by mainstream, Western doctrines and theories of secularism. Reimagining secularism is virtually impossible unless we reduce our reliance on these formulations. These doctrines and theories have become part of the problem, hurdles to properly examining the issues at stake. Wittgenstein's warning that the hold of a particular picture is so strong that it prevents, even occludes, awareness of other conceptions of reality is apt here. We are so seized by one or two conceptions that we simply cannot notice other conceptions that have been pushed into the background. Once we shift away from currently dominant models and focus on the normative practices of a broader range of Western states beyond the more familiar ones, indeed also on non-Western states, we shall see that better forms of secular states and much more defensible versions of secularisms are available. And although in some contexts minimally decent religion-centred states may be adequate, by and large they will not do, because they, too, are as much a part of the problem as are some secular states.

So we need to move away from these doctrinal formulations of political secularism and unearth different versions found in the best practices of many states in their judicial pronouncements and constitutional articles. Another reason to go to these practices and reflections is that norms implicit in practices keep shifting, but these shifts are largely hidden from public view. When practices that do not match doctrinal formulations come to light, two options are available: first, to withdraw the practice because it falls short of the ideal; second, to withdraw the doctrinal ideal and rearticulate the norms and build another conception of secularism. When it comes to the crunch, many Western states take the first easy option. They withdraw ethically sensitive, democratically negotiated arrangements and practices and take refuge in the entrenched ideals. This is frequently a retrogressive step. Focusing on normative practices and constitutional articles and refashioning secularism will help us displace a worn-out ideal and shift the norm, bringing it closer to how people wish to lead their lives, rather than how they should lead their lives in accordance with a more or less redundant ideal.

Models of Secularism

Which existing models am I talking about? Mainly, there are two: the French and the American. In addition, there is a third found in the rest of Western Europe. Let me critically examine each of these models.

The Idealised French Model

The idealised French conception holds that the state must be separate from religion while retaining the power to interfere

in it. However, religion is divested of any power to intervene in matters of the state. In short, separation here means one-sided exclusion. Thus, in March 2004 the French Assembly and the Senate introduced a new law banning headscarves in schools. This one-sided exclusionary attitude continues a long-standing move in France, after Catholic dominance in French public schools was replaced with a philosophically secular outlook. Since then, religious instruction has been abandoned. Organised prayer is forbidden and students cannot make a pledge that refers to god. The French exclude religious symbols and discourses from the public sphere. French public institution has no prayer or reference to god (Klaussen 2005; Bowen 2007; Freedman 2004). France hopes to deal with institutionalised religious domination by taming and marginalising religion and actively promoting secularisation in each of its three senses: differentiation, privatisation, and decline of religious beliefs and practices. Over time, states that follow this conception develop a hierarchy between the secular and the religious, and may perpetuate the non-religious domination of the religious. This happens even more so when, to promote more rigorous non-religious conceptions of positive freedoms and substantive equalities, states cross minimal thresholds of morality, formal equality, and decency.

States governed by this conception typically have a single, robust conception of the good life that translates into deep scepticism about the truth claims and value of religion, and about its public role and capacity to ever prevent forms of oppression and domination. Typically, this secularism does not understand the believer's life as it is lived from the inside. It misses out on perhaps the central feature of most religions: that they encourage their members to choose to live a disciplined, restricted, rule-bound, and desire-abnegating life. To be sure, even such an anti-religious stance may help states to deal with cases of intra-religious domination, where some members of a religious community dominate members of their own religion, as occurs with anti-clericalism in France. But often their relative blindness to religion makes states driven by such conceptions insensitive to religious freedoms, particularly to the religious freedom of minorities. As a result, states may, wittingly or unwittingly, perpetuate inter-religious domination.

Many segments in virtually every society, on the right but particularly on the left, are tempted to follow the anti-pluralist French model, largely because they have bought into the view that religion – in Europe, more specifically Islam – is a “problem”, and that its solution requires the coercive power of the state. Such an approach is detrimental to inter-faith relations, particularly because, while strongly interfering with non-Christian faiths, it leaves the formal or informal establishment of a single Christian religion untouched. A striking example is the accommodation of majority Catholics in public schools. School cafeterias serve fish for those Catholics who abstain from meat, but no such provision exists for those students who eat only halal meat. The French state and local government own and fund the maintenance of the grand majority of the 45,000 Catholic churches, half the Protestant churches, and about 10% of synagogues (Bhargava 1994: 109). The French

state also pays about 80% of the budget, including the salary of teachers, in Catholic schools that follow the national curriculum and are open to students of all faiths (*ibid*). Jocelyne Cesari stresses that “the collective dimension of Islam was confined to the intimate space of the residences, the hearths, the provided places at hotels, or the backs of the shops” (2010: 12).

The Idealised American Model

The idealised version of American self-understanding interprets separation to mean mutual exclusion. Neither the state nor religion is to interfere in the domain of the other. This mutual exclusion is held to be necessary to resolve conflicts between different Christian denominations, to grant a measure of equality between them, and – most crucially – to provide individuals the freedom to set up and maintain their own religious associations. The protection of religious liberties more generally is viewed as the *raison d'être* of this model. This strict or “perfect separation”, as James Madison terms it, must take place at each of the three distinct levels of ends, institutions and personnel, and law and public policy. The first two levels make the state non-theocratic and disestablish religion. The third level ensures that the state has neither a positive nor a negative relationship with religion. On the positive side, for example, there should be no policy of granting aid, even non-preferentially, to religious institutions. On the negative side, it is not within the scope of state activity to interfere in religious matters, even when some of the values professed by the state, such as equality, are violated within the religious domain (consider President Barack Obama's helplessness in the face of the threat in America to publicly burn the Quran). As Leonard W Levy (1994) puts it, Congress simply has no power to legislate on any matter pertaining to religion (also see Hamburger 2002).

This non-interference is justified on the grounds that religion is a privileged, private (that is, non-state) matter, and if something is amiss within this private domain, it can be rectified only by those who have a right to do so within this sphere. This view, according to its proponents, is what religious freedom means. Thus, the freedom that justifies mutual exclusion is negative liberty, and is closely enmeshed with the privatisation of religion. However, privatisation here means non-officialisation. American political secularism does not promote secularisation in two of three senses mentioned above. It encourages a vibrant presence of religion in the non-state, public domain, and does little to discourage religious beliefs or practices.

This model of secularism encourages the state to passively respect religion. Since any intervention is tantamount to control, the only way to respect religion is to leave it alone. Idealised American secularism, then, has some resources to fight inter-religious domination (for example, it necessitates the disestablishment of the dominant religion), but few resources to wage a struggle against deeper, more structural aspects of this domination. The state's hands-off approach binds it to not facilitate freedoms or equality within religions. The American state may have worked out other strategies to minimise such dominations. However, states that lack its more conciliatory

history, or that possess religions that do not easily allow the exit option, would perpetuate religion-related domination in following the American model. Moreover, by interpreting separation as exclusion, this model of secularism betrays its sectarianism; it can live comfortably with liberal, Protestantised, individualised and privatised religions, but has fewer resources to cope with religions that mandate greater public or political presence, or that have a strong communal orientation. This group insensitivity makes it impossible to accommodate community-specific rights, such as the right of religious communities to set up and maintain their own educational institutions, and therefore virtually impossible to more robustly protect the rights of religious minorities.

Furthermore, as a product of the Protestant ethic, American secularism's greatest drawback is its universal pretension. It presupposes a Christian civilisation, something easily forgotten because over time this civilisation has silently slid into the background. Christianity allows this self-limitation, and much of the world innocently mistakes this somewhat cunning self-denial for Christianity's disappearance (Connolly 1999: 24). But if this is so, this "inherently dogmatic" secularism cannot coexist innocently with other religions (Keane 2000: 14; Madan 1998: 298). Given the enormous power of the state, it must try to shape and transform other religions – a clear instance of illegitimate influence. Thus, despite all its claims of leaving religions alone and granting religions liberty, this secularism is inhospitable to non-liberal, non-Protestant believers (Hamburger 2002: 193-251). It can become inhospitable to non-believers as well, "under God". Indeed, an excessive focus on religious freedom from the state may enhance inter-religious domination. I am conscious that this is not an empirical claim about American society or politics. Instead, I am suggesting that if such a model is followed elsewhere, it may neither protect people from some forms of inter-religious domination, nor from intra-religious domination.

The current theoretical formulations of this model – represented, for example, by philosophical liberalism – only aggravate these problems. Thus, liberal secularist theories enjoin the citizen to support only those coercive state laws for which there is public justification. If others are expected to follow a law based on terms they do not understand, and for reasons they cannot endorse, the principle of equal respect is violated – so the reasoning goes (Audi 1993: 701; Macedo 1990: 249; Rawls 1971: 337-38; Solum 1990: 1047-81; Weithman 1997: 6). Coercive principles must be as justifiable to others as they are to us, and therefore must be based on terms that all citizens can accept on the grounds of their common reason (Larmore 1996: 137).

Since a religious rationale is a paradigmatic case of a basis for conduct that other citizens have good reasons to reject, it does not count as public justification; thus, a law grounded solely in a religious rationale must never be enacted. In short, purely religious convictions or commitments have no role to play in democratic and pluralist polities. This requirement – that religious reasons be excluded from liberal-democratic politics – is offensive to religious persons who, like others,

wish to support their favoured political commitments according to their conscience (Sandel 1993). If people believe that their politics must be consistent with their morality as derived from religion, why should they be discouraged or stigmatised for grounding their politics in religious convictions? By asking the religious to exercise restraint and exclude theological reasons from their justification for a coercive law, liberal secularism forces them to act against their conscience and, in so doing, violates its own principle of equal respect. Indeed, the demand that restraint be exercised is counterproductive because exclusion from the larger public sphere forces the religious to form their own narrow public, where resentment and prejudice flourish (Spinner-Halev 2000: 150-56). This response leads not only to the freezing of identities, but also to the building of unbreachable walls between religious and non-religious citizens. Therefore, "engagement with religious people is typically better than shunning them" (ibid: 155).

Furthermore, the model of moral reasoning typical of such secularisms is context-insensitive, theoreticist, and absolutist (or non-comparative), enjoining us to think in terms of this or that since it is too heavily reliant on monolithic ideas or values considered true, superior, or wholly non-negotiable (on this, see Connolly 1999: 27).

In sum, both the French and American versions developed in the context of a single-religion society and as a way to solve the problems of one religion, namely, Christianity. They were not designed to deal with deep religious diversity.

Western Secularism in European Societies

Neither of these two models adequately captures the models of secularism really at play in European societies. Most European states follow neither the French nor the American model. Virtually all European states have a stable regime of individual rights, which includes the right to religious liberty. None could have managed to install this regime without having attacked the power and privilege of their churches in the past, a stridency that would not have been possible without some degree of state-church separation. Yet, unlike in France, there is no lingering hostility towards religion in other European state structures.

In Europe, initial hostility was followed by active support. Nearly all European states have developed an institutional arrangement that grants some privilege or public recognition to their church. Indeed, some still have an established church, a privileged arrangement that goes well beyond recognition. Tariq Modood (2011) finds the combination of separation of church and state and support for religion compatible with secularism; he calls it "moderate secularism".

Such is the context in which non-Christian migrants to Europe, the majority of whom are Muslims, have been arriving, settling, and making claims that relate to the place of religious identity in the public sphere. But it is precisely here that a sense of a crisis of secularism is found. Modood (2011) hopes that this challenge can be met by extending the historical compromises between church and state to other religions, particularly to Islam. However, the multiculturalisation of this

secularism is neither easy nor sufficient. It is not easy because it presupposes a massive change in the cultural background. Institutional adjustment is bound to be difficult because an internal link exists between the collective secular self-understanding of European societies and the deeply problematic institutional arrangements. Quite plainly, current European institutions are deeply biased. They have accommodated Christians, but will not be able to accommodate Muslims. They are not sufficient because simple accommodation without some accompanying "hostility" or critical questioning may not work for all Muslim citizens. For instance, many Muslim women might welcome hostility to some customs that have come to be associated with their religion.

Why are institutional adjustments difficult to achieve? Using a broad brush, we might say that European secularisms arose in predominantly single-religion societies. Issues of radical individual freedom and citizenship equality arose in European societies after religious homogenisation. The birth of confessional states was accompanied by the massive expulsion of subject communities whose faith differed from the religion of the ruler. Such states eventually found some place for toleration in their moral space, but as is well known, toleration was consistent with deep inequalities and with a humiliating, marginalised, and virtually invisible existence. For instance, the church buildings of minority religious groups could not look like churches, and had to be tucked away in lanes far from the church of the dominant group.

The liberal democratisation and consequent secularisation of many European states have helped citizens from non-Christian faiths to acquire most formal rights. But such a scheme of rights neither embodies a regime of inter-religious equality, nor effectively prevents religion-based discrimination and exclusion. Indeed, it masks majoritarian, ethno-religious biases.

The new reality of deepening religious diversity has brought the religious biases of European states into increasingly sharper relief (Klaussen 2005). Despite all changes, European states have continued to privilege Christianity in one form or another. These biases are evident in the different kinds of difficulties faced by Muslims. For example, in Britain, one-third of all primary school students are educated by religious communities, yet applications for state funding by Muslims are frequently turned down. Veit Bader (2007) informs us that there are currently only five Muslim schools, compared to 2,000 run by Roman Catholics and 4,700 run by the Church of England. This bias is also manifest in the failure of many Western European states to heed demands by Muslims to build mosques, and therefore to properly practise their own faith (Germany and Italy), in discrimination against ritual slaughter (Germany), and in unheeded demands by Muslims for proper burial grounds of their own (Denmark, among others). Given that in recent times Islamophobia has gripped the imagination of several Western societies – as exemplified by the cartoon controversy in Denmark and by the minarets issue in Switzerland – it is very likely that their Muslim citizens will continue to face disadvantages.

Removing the biases of European states will not be easy because of resistance from the right, institutional resilience, and

differences between Christianity and Islam, not to mention between Christianity and non-Semitic religions such as Hinduism. Moderate secularism will be severely tested. Indeed, the test has already begun, which is why talk of strain or even crisis is justified.

So far, I have been talking as though the initiative lies squarely with only one agent, the European state (and its supporters), and as though Muslims will respond enthusiastically to any initiative from this reformed (that is, multiculturalised) state. But this view is too sanguine about the self-understanding of Muslims and about their current condition in Europe. It underestimates their alienation and ghettoisation. Only with a better and deeper understanding of Muslims in different parts of Europe can we learn about what should and should not be accommodated, and about what can and cannot be accommodated. Indeed, only in a more relaxed atmosphere can a plurality of voices – the more vulnerable voices – emerge and be better heard, a change that will have a huge bearing on our collective judgment of what should and should not be accommodated. (As of now, we hear two dominant voices: that of the ultra-orthodox Muslim and that of the lapsed Muslim, a convert to radical secularism.)

These voices may necessitate not just accommodation, but also more active state intervention, either to foster or to suppress some hitherto unnoticed beliefs and practices of Muslims. It is entirely possible that the state may not only have to support some religious practices, but will also have to inhibit others. European states may be only too happy to abort some Muslim practices, but such intervention would entail a massive shift in their conception of secularism – from first separate, and then only support religion to first separate, and then sometimes support, sometimes inhibit religion – what I call principled distance. In short, they may have to set aside their moderate stance of accommodating, rather than being hostile to, religion. Currently, the practice of most European states is to offer little official support, to provide no accommodation, and, with few exceptions, to stay indifferent to massive societal intolerance. What might be required is more support of some religions, less support of others, and active interference in societal intolerance – that is, an attempt by the state to tackle both inter- and intra-religious domination.

This, in part, entails abandoning moderate secularism. To respond to the challenge of deep diversity, Europe might be better off with an altogether different conception of secularism.

Indeed, moderate secularism stands in the way of nurturing the norms of principled distance embedded in the informal politics of state and non-state actors.

Restricted and Inadequate Formulations

I believe, then, that the doctrinal, ideological, and theoretical formulations of Western secularism have become highly restricted and inadequate, as have the formal politics and laws inspired by these doctrines and ideologies. A reimagining of secularism is impossible unless we reduce our reliance on these formal practices and formulations, including the French and the American models of exclusionary separation of church and state, as well as the formal, institutional political practices

of most European states. Once we shift away from these alternate perspectives and start to focus on the normative informal practices of a broader range of Western and non-Western states, we shall see that better forms of secular states and much more defensible versions of secularism are available.

The Indian Model of Secularism

Can a version of secularism be found that is sensitive simultaneously to the moral integrity of both liberal and non-liberal religious ways of living, as well as able to address religious or religion-based oppression and exclusions – one that goes beyond liberal, libertarian, and republican theories? Another model of secularism exists, although theoretically less developed and not generated exclusively in the West, that meets the needs of societies with deep religious diversity and also complies with the principles of freedom and equality. This model meets the secularist objection to non-secular states, and the religious objection to some forms of secular state (see also Bhargava 2011, 2012, 2013). To identify it, we must consider the normative and discursive levels and look at some of the developing normative practices of the French, British, and even American states. However, the best place to find this version of secularism is within the best inter-communal practice in the subcontinent of India, and in its appropriately interpreted Constitution. In India, the existence of deep religious diversity has ensured a conceptual response to problems not only within religions, but also between them. Without taking it as a blueprint, other societies might examine the Indian conception.

Several features of Indian secularism can be identified that distinguish it from other variants. First, multiple religions are not mere extras added on as an afterthought, but were present at the starting point as part of the foundation of Indian secularism. Deep religious diversity is an integral part of India's social and cultural landscape. Second, this form of secularism has a commitment to multiple values, namely, liberty, equality and fraternity – not conceived narrowly as pertaining to individuals, but interpreted broadly to cover the relative autonomy of religious communities and their equality of status in society – as well as other, more basic values such as peace, toleration, and mutual respect between communities.

The acceptance of community-specific rights brings me to the third feature of Indian secularism. Since it was born in a deeply multi-religious society, it is concerned as much with inter-religious domination as it is with intra-religious domination in the aftermath of the horrors of Partition. Whereas the two Western conceptions of secularism have provided benefits to minorities only incidentally (Jews benefited in some European countries such as France not because their special needs and demands were met, but because of a change in the general climate of the society), under the Indian conception even community-specific political rights (through political reservations for religious minorities) were almost granted during the drafting of the Constitution, but were withheld in the last instance only for contextual reasons. In fact, it is arguable that a conceptual space is still available for these rights within the Indian Constitution.

Fourth, Indian secularism does not erect a wall of separation between religion and state. There are boundaries, of course, but they are porous. This situation allows the state to intervene in religions in order to help or hinder them without the impulse to control or destroy them. This intervention can include granting aid to educational institutions of religious communities on a non-preferential basis, and interfering in socio-religious institutions that deny equal dignity and status to members of their own religion or to those of others – for example, the ban on untouchability and the obligation to allow everyone, irrespective of their caste or gender, to enter Hindu temples. In short, Indian secularism interprets separation to mean not strict exclusion or strict neutrality, but what I call principled distance, which is completely from one-sided exclusion, mutual exclusion, strict neutrality, and equidistance.

Fifth, Indian secularism is not entirely averse to the public character of religions. Although the state is not identified with a particular religion or with religion more generally, official, and therefore public, recognition is granted to religious communities. The model admits a distinction between de-publicisation and de-politicisation, as well as between different kinds of de-politicisation. As it is not hostile to the public presence of religion, it does not aim to de-publicise it. It accepts the importance of one form of de-politicisation of religion. Sixth, this model shows that in responding to religion, we do not have to choose between active hostility and passive indifference, or between disrespectful hostility and respectful indifference. We can combine the two, permitting the necessary hostility as long as there is also active respect. The state may intervene to inhibit some practices as long as it shows respect for other practices of the religious community, and does so by publicly lending support to them.

Seventh, by not fixing its commitment from the start exclusively to individual or community values, and by not marking rigid boundaries between the public and the private, India's constitutional secularism allows decisions on these matters to be made either within the open dynamics of democratic politics or by contextual reasoning in the courts. Eighth, one might say that Indian political secularism shows a marked preference for morally grounded secularisation in each of the senses mentioned above. There is no process out there which cannot be brought partially under human (democratic) control. Nor must an attempt be made for a blanket, morally insensitive restriction, privatisation, or decline of religion. Ninth, it opens up the possibility of different societies working out their own secularisms. In short, it opens out the possibility of multiple secularisms. Tenth, it breaks out of the rigid interpretative grid that divides our social world into the Western modern and the traditional, indigenous non-Western. Indian secularism is modern, but departs significantly from mainstream conceptions of Western secularism. Finally, the commitment to multiple values and principled distance means that the state tries to balance different, ambiguous, but equally important values. This makes its secular ideal more like a contextual, ethically sensitive, politically negotiated arrangement – which it really

is – rather than a scientific doctrine conjured up by ideologues and implemented by political agents.

A somewhat forced, formulaic articulation of Indian secularism goes something like this. The state must keep a principled distance from all public or private and individual-oriented or community-oriented religious institutions for the sake of the equally significant – and sometimes conflicting – values of peace, worldly goods, dignity, liberty, equality and fraternity in all of its complicated individualistic and non-individualistic versions. Indian secularism, then, is an ethically sensitive, negotiated settlement between diverse groups and divergent values. This model thus embodies what I call contextual secularism.

Allow me to elaborate on two features of the Indian model: principled distance and contextual secularism.

Principled Distance

The idea of principled distance unpacks the metaphor of separation differently from mainstream Western secularisms. It accepts a disconnection between state and religion at the level of ends and institutions, but does not make a fetish of it at the level of policy and law; this distinguishes it from all other models of secularism, moral and amoral, that disconnect state and religion at this level.

The policy of principled distance entails a flexible approach to the issue of the state's inclusion or exclusion of religion, and to the issue of its engagement with or disengagement from religion, which at the level of law and policy depends on the context, nature, and current state of relevant religions. Inclusion or engagement must be governed by principles undergirding a secular state, which flow from a commitment to the values mentioned above. This requirement means that religion may be included in the affairs of the state if such inclusion promotes freedom, equality, or any other value integral to secularism, and thereby reduces inter- or intra-religious domination. For example, citizens may support a coercive state law by including a purely religious rationale as ground if this law is compatible with freedom, fraternity or equality. Principled distance rejects the standard liberal idea that the principle of equal respect is best realised only when people come into the public domain by leaving their religious reasoning behind.

Engaging positively or negatively, depending entirely on whether the above-mentioned values are promoted or undermined, is one constitutive idea of principled distance. A second idea distinguishes it from strict neutrality, which dictates that the state must help or hinder all religions to an equal degree and in the same manner; if it intervenes in one religion, it must also do so in others. This makes principled distance rest upon a distinction explicitly drawn by the American philosopher Ronald Dworkin (1978: 125), between equal treatment and treating everyone as an equal. The principle of equal treatment in the relevant political sense requires that the state treat all citizens equally in the relevant respect – for example, in the distribution of a resource of opportunity. In contrast, the principle of treating people as equals entails that every person or group is treated with equal concern and respect. This second principle may sometimes require equal treatment – say, equal distribution

of resources – but it may also occasionally dictate unequal preferential treatment. Treating people or groups as equals is entirely consistent with differential treatment. This idea is the second ingredient in what I have called principled distance.

When I say that principled distance allows for both engagement with, or disengagement from, and does so by allowing differential treatment, what kind of treatment do I have in mind? First, religious groups have sought exemptions when states have intervened in religious practices by promulgating laws designed to apply neutrally across society. This demand for non-interference is made on the grounds that the law requires them to do things not permitted by their religion, or that it prevents them from doing things mandated by their religion. For example, Sikhs demand exemptions from mandatory helmet laws and police dress codes to accommodate their religiously required turbans. Muslim women and girls demand that the state not interfere in the religious requirement that they wear the chador. Rightly or wrongly, religiously grounded personal laws may be exempted. Elsewhere, Jews and Muslims seek exemptions from Sunday closing laws on the grounds that such closing is not required by their religion. Principled distance allows a practice that is banned or regulated in the majority culture to be permitted in the minority culture because of the distinctive status and meaning it holds for the minority culture's members.

For the mainstream conception of secularism, this variability is a problem because of a simple and somewhat absolutist morality that attributes overwhelming importance to one value – particularly to equal treatment, equal liberty, or equality of individual citizenship. Religious groups may demand that the state refrain from interference in their practices, but they may equally demand that the state interfere in such a way as to give them special assistance so they are able to secure what other groups are routinely able to acquire by virtue of their social dominance in the political community. The state may grant authority to religious officials to perform legally binding marriages, or to have their own rules for, or methods of, obtaining a divorce. Principled distance allows the possibility of such policies on the grounds that holding people accountable to a law to which they have not consented might be unfair. Furthermore, it does not discourage public justification – that is, justification based on reasons endorsable by all. Indeed, it encourages people to pursue public justification. However, if the attempt to arrive at public justification fails, it enjoins religiously minded citizens to support coercive laws that, although based purely on religious reasons, are consistent with freedom and equality (Eberle 2002).

However, principled distance is not just a recipe for differential treatment in the form of special exemptions. It may even require state intervention and, moreover (in some religions more than in others), considering the historical and social condition of all relevant religions. To take the first examples of positive engagement, some holidays of all majority and minority religions are granted national status. Subsidies are provided to schools run by all religious communities. Minority religions are granted a constitutional right to establish and maintain

their educational institutions. Limited funding is available to Muslims for hajj. But state engagement can also take a negative interventionist form. For the promotion of a particular value constitutive of secularism, some religions, relative to others, may require more interference from the state. For example, suppose that the value to be advanced is social equality. This requires, in part, undermining caste and gender hierarchies. Thus, there is a constitutional ban on untouchability and Hindu temples were thrown open to all, particularly to former untouchables, should they choose to enter them. Child marriage was banned among Hindus and a right to divorce was introduced.

Consider once again laws that interfere with Hinduism for evaluating these. The relevant consideration is not whether they immediately encompass all groups, but whether or not they are just and consistent with the values of secularism. Three reasons exist for why all social groups need not be covered by these laws: first, they may be relevant only to one group, for example, the abolition of devadasi dedication was relevant only to Hindus. Second, laws in liberal democracies require legitimacy; the consent of at least the representatives of communities is vital. If consent has indeed been obtained from the representatives of only one community, it is sometimes prudent to enact community-specific laws. It is wise to apply the general principle in stages, rather than not have it at all. Finally,

it is perfectly within the competence of the legislature to take account of the degree of evil which is prevalent under various circumstances and the legislature is not bound to legislate for all evils at the same time. Therefore, an act passed by the legislature cannot be attacked merely because it tackles only some of the evils in society and does not tackle other evils of the same or worse kind which may be prevalent (AIR 1952, Bom 84, *The State of Bambay vs NarasuAppa*).

Thus, if the legislature acting on these considerations wanted to enact a special provision with regard to, say, bigamous marriages among Hindus, it cannot be said that the legislature was discriminating against Hindus only on the ground of religion (AIR 1952, Bom 84, *The State of Bambay vs NarasuAppa*). Indian courts have frequently followed this line of reasoning. They have defended a policy if they found that its purpose is the eradication of a social evil traceable to religious practices, even if the policy was targeted at specific communities.

Contextual Secularism

A context-sensitive secularism, one based on the idea of principled distance, is what I term contextual secularism. It is contextual not only because the precise form and content of secularism varies from one context to another and from place to place, but also because it embodies a certain model of contextual moral reasoning. It is a multi-value doctrine. To accept its multi-value nature is to acknowledge that its constitutive values do not always sit easily with one another. In fact, these are frequently in conflict.

Some degree of internal discord, and therefore a fair amount of instability, is an integral part of contextual secularism. For this reason, it forever requires fresh interpretations, contextual judgments, and attempts at reconciliation and compromise.

No general a priori rule of resolving these conflicts exists, no easy lexical order, no pre-existing hierarchy among values or laws that enable us to decide that, no matter what the context, a particular value must override everything else. Almost everything, then, is a matter of situational thinking and contextual reasoning. Whether one value will override or be reconcilable with another cannot be decided beforehand. Each time the matter will present itself differently and will be differently resolved. If this is true, the practice of secularism requires a different model of moral reasoning than the one that strait-jackets our moral understanding in the form of well-delineated and explicitly stated rules (Taylor 1994). This contextual secularism recognises that conflicts between individual rights and group rights, or between equality and liberty, or between liberty and the satisfaction of basic needs cannot always be adjudicated by recourse to some general and abstract principle. Rather, they can be settled only case by case, and may require a fine balancing of competing claims. The eventual outcome may not be wholly satisfactory to either claimant, but may still be reasonably satisfactory to both. Multi-value doctrines such as secularism encourage accommodation – not the giving up of one value for the sake of another, but their reconciliation and possible harmonisation so that apparently incompatible concepts and values may operate without changes to their basic content.

This endeavour to make concepts, viewpoints and values work simultaneously does not amount to a morally objectionable compromise. This is so because nothing of importance is being given up for the sake of something less significant, something without value, or even with negative value. Rather, what is pursued is a mutually agreed upon middle way that combines elements from two or more equally valuable entities. The roots of such attempts at reconciliation and accommodation lie in a lack of dogmatism, in a willingness to experiment – to think at different levels and in separate spheres – and in a readiness to make and accept decisions on a provisional basis. The pursuit of this middle way captures a way of thinking characterised by the following dictum: "Why look at things in terms of this or that, why not try to have both this and that?" (Austin 1972: 318). This way of thinking recognises that, although we may currently be unable to secure the best of both values and may therefore be forced to settle for a watered-down version of each, we must continue to have an abiding commitment to searching for a transcendence of this second-best condition.

It is frequently argued that Indian secularism is contradictory because it tries to bring together individual and community rights, and that those articles in the Indian Constitution that have a bearing on the secular nature of the Indian state are deeply conflictual, and at best ambiguous (Tambiah 1998: 445-53). This characterisation, however, misrecognises a virtue as a vice. In my view, the attempt to bring together seemingly incompatible values is a great strength of Indian secularism, and indeed, the Indian Constitution. Indian secularism is an ethically sensitive negotiated settlement between diverse groups and divergent values. When it is not treated as

such, it turns either into a dead formula or into a facade for political manoeuvres.

Possible Objections

Two other serious objections are frequently raised against this model. First, it assumes that the state has the capacity to impartially arbitrate among conflicting religious groups. But is any state ever impartial towards all religions or between the religious and the secular? Are not structural biases present in every state? Second, the notion of principled distance is found to be problematic. Here, two possible criticisms can be anticipated straight away; one, that it is strongly reliant on Kantian liberalism and has all the problems endemic to the latter. However, a critique comes from the opposite direction too. It is claimed that it is far too pragmatic in the crude opportunistic sense, the assumption here being that any negotiation or compromise is morally wrong. In what follows, I shall try to counter these objections.

It is not my claim that the state has no biases. Indeed, a commitment to certain goals makes the state bend in the direction of those objectives. Only those who have a god's-eye view of impartiality or neutrality expect the state not to have any biases! Since I believe that all humans and human-made entities are laden with some interest or values, I reject a god's-eye view of impartiality, an absolutist impartiality from nowhere (see Bhargava 1994). Yet, the state can embody a set of minimal values that all citizens, if they were to use their powers of reason and empathy, can agree on, and without which a decent, egalitarian social life is impossible. For instance, they can all agree not to subordinate themselves to each other and to live their lives in accordance with conceptions of the good they have worked out with each other's help, although without undue influence. More importantly, a state not only embodies a set of professed values, but also reflects the overall cultural ethos within which it is located. This ethos may or may not be made of multicultural strands of equal weight or strength. For example, if a state is situated within a lively Christian tradition, it is, if examined close enough, likely to reflect the character of that tradition. The more important issue, then, is what the state does once it begins to recognise its own cultural and religious leanings – those which are not stated and have even been disavowed, but are nonetheless present in its institutions and practices.

An example would help. In India, a very large and significant number of people either call themselves Hindu or are taken to be so. Though not entirely, the ethos of many of India's social and political institutions is saturated, it might be reasonably claimed, by one or the other strand of "Hinduism". So, regardless of our evaluative judgment, it would not be entirely incorrect to say that these institutions are somewhat Hinduisised or wear a Hindu look. Yet, India also has Muslims, Christians, Parsees, Buddhists, Jains, Sikhs, atheists, and people with many other not so easily definable outlooks. Sections of Hindus may find their practices disagreeable, morally discomforting, or just downright strange, but they tolerate them. They may collectively have the power to interfere in them,

even banish them, but they refrain from doing so. Of course, legally they have no other option. These religious communities have rights not to be interfered with in their religious and cultural practices. But the minorities will not be able to effectively exercise their rights, if Hindus do not possess the capacity for other-related self-restraint. Most Hindus do, as a matter of fact, exercise such restraint. But is this sufficient for a morally justified coexistence between Hindus and minority communities? Suppose, then, that community-specific rights of minorities are respected, but Hindu self-assertion becomes more pronounced. Let us say they build new temples around every corner, ensure that these are mightier in size than mosques and churches, fund new radio and television channels that stream Hindu teachings and no other, introduce textbooks that speak largely of and glorify Hindu gods and goddesses, change national and state symbols in order to make them explicitly and exclusively Hindu, and so on. What would its impact be on the psyche of the minorities? Most likely, it will increase their sense of social and cultural alienation. It will force them to feel left out of many public domains. It might even lower their self-esteem. Alternatively, Hindus can show some self-related self-restraint, so as not to show off, to not always wear their own religion and culture on their sleeves, to not always advertise their wares, as it were. Indeed, to persistently announce in public that you are the boss in your own country might be a definitive sign of deep-rooted insecurities and anxieties, one that is both potentially damaging to others and to oneself. Abandoning this self-related self-restraint might then adversely affect everyone, and destroy the very fabric of contemporary Indian society.

A second, related objection can be answered by spelling out what kind of state I have in mind when I speak of "the state". I am certainly not talking here about an authoritarian, centralised state. I take it for granted that the state is democratic, not only in the sense that its own institutions are so, but also in the other sense that it is continually nourished by a democratic ethos. A state with democratic institutions can be impartial to some degree, if at least some politicians behave as statespersons, some judges scrupulously make decisions that are legally sound and wise, and so on. But for its biases to be revealed and rectified, in short, for a state to act in a properly secular and democratic manner, it is imperative that there be a free and vibrant press, committed social activists, and an alert citizenry. An impartial and secular state is dependent on multiple agents both within its structure and outside it. There is no way to ensure that the first act of the state on a relevant issue be properly and unmistakably secular. However, if the state is understood as multiple agent-dependent, then over time it can shed most of its significant biases for one religion and emerge instead as secular and impartial. A frequently asked question is: Who decides what is right and properly secular? My answer always is: A relatively correct and endorsable decision cannot be taken without the involvement of all relevant agents, including those who are directly and adversely affected by the decision. All decisions in a democratic state are taken over a time, and invariably involve a large number and different kinds of agents.

So must the case be with decisions of the state that are expected to be appropriately secular. They take time and must involve a number of agents if they are to arrive at sound and endorsable decision. Indeed, such decisions involving multiple agents do take a long time, even if it turns out that they are mistaken (as is attested by the French hijab issue, which was sparked off in 1989 and resolved by law 15 years later, in 2004).

Readers have frequently expressed dissatisfaction with the lack of clarity and confusion surrounding the notion of principled distance. To begin with, I used the term "distance" to distinguish my account from a separationist reading of political secularism. In the latter view, separation of state and religion means a somewhat strict and wholly unambiguous exclusion of religion from the state at each of the three levels, i.e., (i) ends, (ii) institutional and personnel, and (iii) law and public policy. As indicated earlier, I find this interpretation of separation neither desirable nor possible. Distance is a less extreme mode of relation. Keeping a distance from something does not prevent one from relating to it in multiple ways. It implies only that there is neither identity nor closeness. The rest is left unspecified, opening a terrain of multiple possibilities. It allows for flexibility when it is desperately needed, and therefore, for change in perspective and practice when the situation demands. But it is precisely this openness and flexibility that has led some critics to the mistaken conclusion that virtually any mode of relation between state and religion is permissible. Does this not allow anything and everything to barge in? Does it not introduce an ad hocism or opportunism that is conceptually defeating and morally outrageous? Thus, it is alleged that this model of secularism allows for state involvement in, or detachment from, religion, grounded purely in reasons of, say, vote-bank politics or appeasing the tantrums of particular religious groups. But then, it is precisely to block such interpretation that the term "principled", so crucial in the phrase "principled distance", is used. Every action of the state in relation to all religious communities must be grounded in, supported by, and justified in terms of principles. Given this, it would be preposterous to think of principled distance as a purely tactical and opportunistic policy adopted for self-aggrandisement, for purely political and financial consideration. Principled distance is not opportunistic distance.

Interpreting, Negotiating, Balancing Values

Furthermore, the not-so-visible plurality of principles can hardly be overemphasised. Multiple principles always come into play in the process of any decision-making. I recognise that this multiplicity can be easily obscured by the very use of the term principle, which in the standard, and perhaps dominant, Kantian interpretation means an exceptionless universal moral law. The phrase "principled distance", when interpreted in these Kantian terms, may appear to have a rigid, uncompromising moral singularity. In my account, however, principles are and must be multiple. Strictly speaking, and in order to avoid this confusion, I should be using the term "value-based distance". Principled distance, however, is crisper and tidy. I prefer it because I do not view principles as Kantian ideologues

would. I am committed to value pluralism and therefore to a potential conflict of values. There are very few instances where a single value applies unambiguously. Most human situations are saturated with multiple and competing values, and therefore any decision requires a sensitive interpretation, negotiation and balancing of all relevant values. I consider it wrong if any one value was to unreflectively and unambiguously override other values relevant to the situation, almost as wrong as taking a decision grounded in pure considerations of wealth or power, despite the need to take into account human values.

In several Hindi films, an upright police officer is faced with a value-conflict of impartially upholding the law of the land or being partial to his only son at the receiving end of the law. The officer expresses an unambiguous preference for the value of impartiality, and no place whatsoever in his moral world for even the most elementary partiality towards his son. When the conflict arises, it is clear to him what is required. He upholds the law and arrests his own son. He does so not through a process of contextual reasoning, but because of his prior commitment to a supreme moral value. He has no wish to understand the point of view of his son, the feelings of his wife, or the reasons why the illegal act was committed. As I said, this is a caricature of the kind of moral reasoning to which the mainstream conception of secularism is committed, but broadly it gets the picture right. However, such moral reasoning that views all compromises as mostly dubious is unworkable in most contexts, and produces morally unacceptable outcomes – all compromises are not wrong or despicable. If something of value is sacrificed for the sake of pure consideration of self-interest, say in the pursuit of power, wealth or fame, then clearly the compromise is morally dubious; however, if one begins with the recognition that multiple values are at stake, then provided one sets issues of self-interest aside, any negotiation or balancing among values is entirely appropriate from a moral point of view. Indeed, such negotiations are morally required. My entire contextualist, morally sensitive approach to secularism as principled distance will lose its distinctiveness and individuality if it is viewed in any other way, say as Kantian or Machiavellian.

The alternative model of reasoning is more nuanced. It simply has to be, if every value is not to be ordered beforehand. Let me take a concrete example to show that the best practice of the Indian state has frequently vindicated the principled distance model of secularism. Under scrutiny, for this purpose, is the important Supreme Court judgment of 1995 on *Prabhu vs Kunte*. By looking at this judgment, I hope to show that, in some cases at least, the judiciary has understood the principles of secularism in much the same way as I have interpreted in this article. Put differently, the best practice of the Indian state conforms to my interpretation of constitutional secularism.

The judgment I examine pertains to the inflammatory speeches by Shiv Sena supremo Bal Thackeray during the election campaign of Ramesh Prabhu, a candidate for the Maharashtra State Legislative Assembly. A sample of the speeches cited by the judgment are given below: "We are

fighting this election for the protection of Hinduism. Therefore, we do not care for the votes of the Muslims. This country belongs to Hindus and will remain so." Again:

You will find Hindu temples underneath if all the Mosques are dug out. Anybody who stands against the Hindus should be showed or worshipped with shoes. Prabhoo should be lead to victory in the name of Hindu. Though this country belongs to Hindus, Ram and Krishna are insulted. We do not want Muslim votes. A snake like Shahabuddin is sitting in the Janata Party. So, the voters should bury this party.

The election of Prabhoo, an independent candidate supported by Shiv Sena, was declared void by the Bombay High Court on the grounds that he and his agent Bal Thackeray had appealed for votes on the basis of the returned candidate's religion, and also that Thackeray's election speeches promoted feelings of enmity and hatred among citizens of India on grounds of religion and community. Both Thackeray and Prabhoo contested this judgment and appealed to the Supreme Court, claiming that their acts did not constitute a violation of the Representation of the People Act, 1951, which prohibits only a direct appeal for votes on the ground of the religion of the candidate. (They also argued that their public speeches did not amount to an appeal for votes on the ground of their religion, because Hindutva means the Indian culture and not merely the Hindu religion. Shockingly, the Court accepted this view. Thus, we have a judgment which exemplifies a combination of the best and worst practices of the Indian judiciary.) Their counsel argued that, because they violate the fundamental right to free speech given by Article 19(i)(a) of the Constitution, subsections 3 and 3A of Section 123 of the Act are unconstitutional.

Practical, Public Reasoning

The Supreme Court rejected the arguments of the appellants, particularly their contention that subsection 3 of Section 123 is violated only when an election speech makes a direct appeal for votes on the ground of the candidate's religion. In the view of the Court, the nature of the speech is determined by its substance as well as by the manner in which it is meant to be understood by the audience within a particular social setting, and if a reasonable interpretation of the speech leads to the same conclusion as a direct appeal, then the speech violates the relevant subsection of the Act. The purpose of enacting the provision, the Court argued, was to ensure that no candidate at an election gets or is denied votes only because of his religion.

Is this judgment of the Court consistent with secularism? More specifically, which version of secularism does it endorse? According to the judgment, it is part of the meaning of secularism that the state has no religion. The judgment claims that a secular state guarantees all its citizens the right to follow their religion according to their own convictions. It further clarifies that secularism is one facet of the right to equality, for it means equality in matters of religion to all individuals and groups. In several passages, the Court also endorses the equality of citizenship. However, in the opinion of the Court, secularism cannot allow the mixing of religion and politics. Its professed goal is violated when a candidate

appeals for votes on the ground of his religion. Does it mean that the Court understands separation to mean the exclusion of religion from politics? If so, its understanding of secularism is very different indeed from the principled distance version outlined above.

Fortunately, the Court clarifies that this secular principle must not be understood simplistically. The mere mention of religion in an election speech is not forbidden by the Act. Religion may figure in an election speech as long as its introduction does not amount to an appeal to vote on the ground of the candidate's religion, or an appeal to not vote for the opponent on the ground of his religion. For example, an election speech made in conformity with the fundamental right to freedom of religion guaranteed under Articles 25-30 of the Constitution cannot be treated as anti-secular. Similarly, if a speech refers to discriminatory acts against any particular religion and promises a removal of this imbalance, then, because its objective is the promotion rather than the denial of equality and justice, the speech is entirely consistent with secularism. This means that the Court endorses Articles 25-30, where every group is protected from discrimination on grounds of religion, and is granted the right to obtain funds from the state for educational purposes on a non-preferential basis. Thus, when the use of religion in political or electoral speeches creates alienation among citizens instead of encouraging solidarity, when it violates the principle of equal citizenship, only then is secularism violated. It was to uphold the principle of equal citizenship or political fraternity and to prevent political alienation among citizens that, according to the court, the makers of the Constitution rejected separate electorates. Forbidding the use of religion for gaining votes is of a piece with the rejection of separate electorates, as both mix religion and politics in an inappropriate manner. This distinction between appropriate and inappropriate mixing of religion and politics is at the heart of the idea of principled distance. Since this distinction is accepted or presupposed by the judgment, it follows unambiguously that separation is understood not as exclusion of religion, but in terms of the idea of principled distance.

Thus, the decision arrived at by a defensible secular state must be viewed as a practical judgment, a result of an elaborate public reasoning with citizens over a long period of time. By its very nature it is not final, but provisional and revisable. It just happens to be the best possible answer to a problem, under the circumstances, at that point in time, which retrospectively may even be understood as part of a long, continuing series of similar morally sensitive practical judgments.

Two further objections might still be raised. First, it might be said: look at the state of the subcontinent! Look at India! How deeply divided it remains! What about the violence against Muslims in Gujarat and against Christians in Odisha? How can success be claimed for the Indian version of secularism? I do not underestimate the force of this objection. The secular ideal in India is in periodic crisis and is deeply contested. Besides, at the best of times, it generates as many problems as it solves. But this account must not be read as an apologia

for the Indian state, but as a reasonable and sympathetic articulation of a conception that the Indian state frequently fails to realise. My discussion is meant to focus on the comparative value of this conception and its potential for the future, and not on how, in fact, it has fared in India. And why should the fate of ideal conceptions with transcultural potential be decided purely on the basis of what happens to them in their place of origin?

Second, it might be objected that I do not focus on the best practices of Western states and emphasise the more vocal articulations of Western secular conceptions. But this criticism is unfair. A part of my point throughout is that a gap has opened up everywhere between the dominant doctrinal formulations and practice, even in the West. My point is not that principled distance is absent from French or American practice, but rather that it exists informally and when it enters the formal sphere, it remains unacknowledged, making no difference to existing doctrinal formulations. These doctrinal conceptions, on the other hand (a) obstruct an understanding of alternative conceptions worked out on the ground by morally sensitive political agents; (b) by influencing politicians and citizens alike, frequently distort the practice of many Western and non-Western states; and (c) mask the many ways in which inter- or intra-religious domination persists in many Western societies. Moreover, it is this conception that has travelled to all parts of the world, and is a continuing source of misunderstanding of the value of secular states. My objective is to displace these conceptions, or at least put them in their place.

I hope to have demonstrated that the principled distance model is the best among available versions. I do not wish to suggest that this alternative model is found only in India. The Indian case is meant to show that such an alternative exists. It is not meant to resurrect a dichotomy between the West and the East. As I have mentioned, I am quite certain that this alternative version is embedded in the best practices of many states, including those Western states that are deeply enamoured of mainstream conceptions of political secularism. My objective here is to draw attention to the point that political theorists do not see the normative potential in the secular practices of these different states because they are obsessed with the normativity of just one variant, the mainstream model of secularism. Western states need to improve their understanding of their own secular practices, just as Western secularism needs a better theoretical self-understanding. Rather than get stuck on models they developed at a particular time in their history, they would do well to more carefully examine the normative potential in their own political practices, or to learn from the original Indian variant.

This problem of misunderstanding secularism afflicts India, too. Both the self-proclaimed supporters of secularism and some of its misguided opponents in India could learn from examining the original Indian variant of constitutional secularism. Indeed, it is my conviction that many critics of Indian secularism will embrace it once they better understand its nature and point, something that can be done only when we

loosen the grip of dominant models of secularism and recognise the existence of multiple secularisms, including the principled distance variant.

In Conclusion

Political secularism must be viewed as part of critical social secularism, indeed, as a self-critical social perspective against not religion or faith, but against institutionalised religious domination. It is part of a family of perspectives against four types of domination: inter-religious, intra-religious, domination of the religious by the secular, and domination of the secular by the religious. We also need to give up the binary opposition between the secular and the religious. A new, re-fashioned conception of secularism must not see a necessary opposition between the secular and the religious. On the contrary, it must encourage a way of conceiving a world inhabited by both religious and non-religious people. Second, we should jettison seeing political secularism as a mere strategy, even as an institutional strategy. Third, secularism should sever its ties with amoral secular states. This means coming to realise that, somewhat paradoxically, secularism is against some secular states. Fourth, the state cannot avoid having or endorsing a policy towards religion or religious organisations. Religion plays an important part in the lives of many people, and religious institutions function in this world like purely secular institutions. So, separation cannot mean the exclusion of religion from the domain of the state. Separation of church and state should also not be interpreted as absolute or strict neutrality. No state can possibly help or hinder all religions in the same manner and to the same degree. The state may interfere with religion and refrain from such interference, depending entirely on which of these promotes the values of freedom and equality, or undermines inter-religious and intra-religious dominations. Thus, we must rethink disconnection or separation talk in terms of principled distance. Furthermore, values of freedom and equality must be interpreted both as rights of individuals and, wherever required, as rights of communities. Community rights are particularly important if religious groups are vulnerable or, because of their small number, have relatively little power to influence the process of decision-making.

Secularism must be neither servile nor hostile to religion. It must manifest an attitude of neither blind deference nor indifference, but of critical respect towards all religions. Secularism that professes principled distance and is sensitive to multiple values cannot avoid making contextual judgments. Contextual judgments allow for ethically sensitive balancing and compromise.

If secularism is to survive as a transcultural normative perspective, it must be de-Christianised, de-Westernised, de-privatised, and de-individualised. In saying so, I do not mean that it must wholly sever its links with Christianity or the West, but its ties with them must be loosened. It should be able to accommodate norms derived from civilisations other than the West. Only with such forms of secularisms and a state nourished by them can deep religious diversity be managed.

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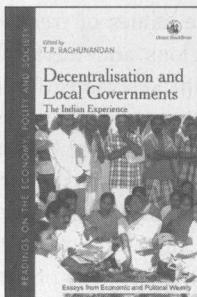
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Decentralisation and Local Governments

Edited by

T R RAGHUNANDAN



The idea of devolving power to local governments was part of the larger political debate during the Indian national movement. With strong advocates for it, like Gandhi, it resulted in constitutional changes and policy decisions in the decades following Independence, to make governance more accountable to and accessible for the common man.

The introduction discusses the milestones in the evolution of local governments post-Independence, while providing an overview of the panchayat system, its evolution and its powers under the British, and the stand of various leaders of the Indian national movement on decentralisation.

This volume discusses the constitutional amendments that gave autonomy to institutions of local governance, both rural and urban, along with the various facets of establishing and strengthening these local self-governments.

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