STATE AND RELIGION IN INDIA: THE INDIAN SECULAR MODEL

Abstract

This article attempts to characterize the so-called Indian secular model by examining the relationship between the state and religion as ratified by the Indian Constitution of 1950. It is shown how, in spite of the ideal of separating state and religion, the state in several cases was allowed to intervene in the affairs of religion. Thus, although the constitution allows individuals free choice of religion and religious denominations the right to establish and administer religious and educational institutions, it also allows the state various means of interfering in religious matters. A major reason for this is the responsibility of the state to protect the rights of the various underprivileged groups in Indian society. The last part of the paper deals briefly with the growing critique of the secular system and ideology from the side of Hindu nationalists and Indian intellectuals, a critique which is largely based on misuses of the system by the Indian political elites.

Key words: India, religion, state, constitutionalism

The overall aim of the present article is to offer a brief characterization of the so-called Indian secular model by examining the relationship between the state and religion as ratified by the Indian Constitution of 1950. In addition to this, the paper will deal briefly with an area where religious group practices still seem to resist secularization, namely the practice of personal laws, as well as with the growing critique of the secular system and ideology from the side of Hindu nationalists and Indian intellectuals.

No matter how much energy has been used in creating an Indian nation prior to and after independence, especially by the Indian National Congress, India cannot be called a nation-state in the European sense. It is not a homogenous nation, but merely a patchwork of states and territories, primarily resulting from British colonialism. Within this patchwork there are 35 states and union territories, out of which five states have more than 75 million inhabitants. Apart from English, which is still the most important language for national, political and commercial purposes, and Hindi which is the national language, there are 14 other official languages. If we look at the religions which are represented in India, the variety is also large. The various religious traditions classified together under the name Hinduism are, of course, the majority, making up 80.5 percent of the population. Islam is the largest minority religion, with 13.4 percent adherents.
Second among the minorities are the Christians who make up 2.3 percent of the population. Third are the Sikhs with 1.9 percent. Fourth and fifth are the Buddhists and the Jains with 0.8 and 0.4 percent, respectively. And among the group of ‘other religions’, we find Parsees, Jews, Baha’is, and tribal religions (2001 Census: http://www.census-india.net/religiondata/presentation_on_religion.pdf).

If this linguistic and religious diversity is not enough, we may add India’s social system represented by the caste structure which, although the practice of untouchability is prohibited according to article 17 of the Indian constitution, is still in many ways an important feature of Indian social and political life. In fact, contrary to what was expected, the caste system has been strengthened after independence, especially due to the practice of reservations.

To sum up, whether we look at language, religion or the social structure, India is characterized by diversity, and, in each of these three spheres of life, it has to be acknowledged that adherence to a group competes with or challenges the adherence to the nation. So, keeping this in mind, it is difficult to imagine a nation marked by greater diversity than India.

It is on the background of this linguistic, social and religious diversity that we have to understand the Indian Constitution and the laws governing the relationship between the Indian state and religion which are embodied in it. The overall challenge with which the persons elected to the Constituent Assembly in 1946 were confronted was, first of all, how to accommodate India’s diversity in a modern, democratic state which could ensure equal rights and equal opportunities to its citizens. The result was a state which most scholars have characterized as a secular state, although the word ‘secular’ itself was only added with the Forty-Second Amendment Act ratified in 1976 (see especially Smith 1963 and Luthera 1964).

How to define the ‘secular state’

Before examining the form of secularism established in the Indian Constitution, we must investigate the meaning of the concept ‘secular state’. Most scholars agree that there is no clear definition of a secular state. In fact, most would even assert that no truly secular state exists. Many Western scholars describe a secular state as one in which there is «separation between church and state». This is, however, clearly misleading in case of India, where one church does not exist. There are rather many different religions. The majority religion, Hinduism, does not have any clear, common, overall organization. If one prefers brevity and a focus on separation, then the definition «separation between religion and state» would be preferable. However, although separation of the state from religion may be the most important characteristic of the secular state, it is not the only one. Separation of state and religion may be a very important factor in Western countries where by religion one religion, namely Christianity, is meant. Furthermore, in these countries the separation often has its roots in the secularization process which started in the European Enlightenment.
However, both in the West and in non-Western countries, like India, where there is a plurality of religions, the secular state often also involves the fact that the state sees itself as neutral in its relationship to these religions. Moreover, in order to effect this neutrality, it needs to separate itself from all forms of religions and belief. This is, in fact, also the raison d'être for the concept of the secular state found in the Constitution of the United States of America. The duplicity of separation and neutrality is also hinted at by Charles Taylor (1999:31) when he tries to introduce an article on secularism by talking about «…this kind of formula … whereby in some way or another, the state distances itself from established religions or in some way can be considered neutral between them».

Religion and the state according to the Indian Constitution

Let us now turn to the relationship between the state and religion in India. The best way to proceed is to examine how this relationship is presented in the Indian Constitution. The Indian Constitution was put into force on the 26. January 1950 and with 92 amendments has been functioning as the foundation of Indian society since then. It was accepted by the 299 person large Constituent Assembly on 26th November 1949 after more than two and a half years of work. With its 395 articles it is one of the largest constitutions in the world.

Naturally, the Indian Constitution is the product of various political interests. Among the representatives in the Constituent Assembly were, on one hand, people who were influenced by Western style secularism. The most important of these was the first prime minister of India, Jawaharlal Nehru, who also had a leaning towards socialism. On the other hand, there were people with clear religious agendas coming from Hinduism, Islam, and Christianity, among others. Common to most of the members of the Constituent Assembly was, however, the agreement that independent India had to be built on some kind of secular foundation in order to prevent the formation of a Hindu state and the possible resulting suppression of the many religious minorities.

Due to different motives and different attitudes to religion and the religious, the Indian Constitution is not a clear cut uniform document. We hear in it, so to speak, a co-mixture of different voices. Part of it, especially that dealing with freedom and liberties, is clearly inspired by the American Declaration of Independence, the Constitution of the United States of America, and other Western constitutions. In these parts, we hear the voice of liberal ideas, the talk about the individual as a citizen, and about equality and democracy. In other parts, we hear a different voice. This is the voice of a more traditional, group-oriented society. In the terminology of Charles Taylor (1999:39, 43), it could be said that the Indian Constitution combines the tendencies and traditions of a ‘mediated-access society’, in which individuals communicate with the state through their membership in a group, a family, a clan, a tribe, or a caste, and a modern ‘direct-access society’ in which the individual in principle has direct access to the state. On the whole, one might characterize the Indian Constitution as ‘secular’. However, the word ‘secular’ was not used in the original constitution. It was only
added to the preamble by the 42nd amendment, ratified in 1976, after which India has been characterized as a «sovereign socialist secular democratic republic».

As in other so-called secular states, the overall principle of the Indian Constitution is the widest possible separation of religion from the state. Religion is a private matter and has to be kept away from the affairs of the state, and the state must likewise, as far as possible, not involve itself in religious matters. This, however, should not be taken to mean that in actual practice religion in India is forced out of public space like in e.g. France or Turkey. On the contrary, the great majority of Indians consider themselves religious, and religion is the norm of daily life. Perhaps it would be more true to say that the reason why religion is kept out of the affairs of the Indian state is that it is too wide-spread and exercises too much power in the peoples’ lives. In this respect, the motives behind the Indian secular model are similar to the reasons behind the American Constitution. Here too, the separation of church and state was felt to be necessary to deal with the diversity of various religious denominations, most of which were of Christian origin.

India cannot be considered as strict a secular state as the United States of America or France. There are simply too many exceptions to the principle of secularism in modern India. On the whole, it seems that the secular features of the Indian Constitution are strongest when speaking about the individual citizen and his / her rights, whereas the non-secular features are mostly visible in the articles dealing with religious organizations and the administration of religion.

Secular features in the Indian Constitution

In this section we examine briefly the secular features of the Indian Constitution. As a consequence of the religious diversity in India and the desire to make India a secular state, the framers of the constitution insisted that the state was not allowed to interfere with its citizens’ choice of religion. Thus, the notion of secularism stands behind the wording of article 25(1) which specifies the right to freedom of religion:

Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

According to this article, all Indian citizens are allowed freely to choose their own religion, to profess and practice it, as well as to propagate it to others. Of course, this freedom is not complete, but is, as in other constitutions, subject to other orders of the state regarding public order, morality and health. Religious excesses such as human sacrifices and widow burning (sati) are, therefore, clearly unacceptable to the state.

As an extension of the right of the individual to profess and practice religion, article 26 states various collective religious rights. Here the right extends beyond individuals to religious denominations or to their sections:
Subject to public order, morality and health, every religious denomination or any section thereof shall have the right – (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.

According to this article, any group of people who form a religious denomination is allowed to establish and maintain institutions necessary to practice their religion, to own property and administer such property. Furthermore, clause b of the article is important because it permits a denomination to «manage its own affairs in matters of religion».

Closely related to article 26 is article 30(1) which gives to all religions or linguistic minorities the right to establish and administer their own religious educational institutions. In general, these articles of the Indian Constitution adhere to the secular principle that religion is not a matter of the state, but is purely individual and private.

If religion is not a matter of the state, it is obvious that the state must not be allowed to discriminate against any of its citizens on the basis of religion. Accordingly, the constitution contains three articles which forbid the state to discriminate against its citizens on the basis of, among other things, religion. The most important among these articles is 15(1), which is the second in a group of five articles dealing with equality of the citizens of India. It states that «The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them». That religion and caste are very important sources of inequality to be prohibited becomes clear from the second clause of article 15:

No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to – (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Clearly, the aim of this article is to prohibit discrimination against any citizen in public. It is clear that religion and caste have traditionally been the most common sources of discrimination. Similarly, article 16(1–2) prohibits discrimination with regard to employment or appointment to any office under the State, and article 29(2) prohibits discrimination with regard to admission into any educational institution maintained by the State or receiving aid out of State funds.

Until now, we have seen that the state assigns among others freedom of conscience to its citizens, both individually and collectively. We have also seen how, in accordance with this freedom, the state protects the citizens from discrimination due to religion in the public sphere and within institutions funded or administered by the state. All this is evidence that in principle the state respects and restrains from involvement in the religion of its citizens.

In addition to these, we find two, more specific, examples of the division between the state and religion in the Indian Constitution. The first is article 27 which forbids the state to collect taxes for the purpose of promoting religion:
No person shall be compelled to pay any taxes, the proceeds of which are specifically appropri-
ated in payment of expenses for the promotion or maintenance of any particular religion or reli-
gious denomination.

From the point of view of the individual citizen, this article means that he is protected
against payment of taxes to other religions that his own, which is fair, when compared
several other states, such as Denmark, which collects taxes for its state religion. As a
consequence of this, the state cannot support economically any specific religion, such
as the religion of the majority, Hinduism. This means that, according to the Indian Con-
stitution, there can be no official state religion.

The other relevant article is 28(1) which simply states that «no religious instruction
shall be provided in any educational institution wholly maintained out of state funds.»
This is another example of how religion is prohibited in state supported institutions.
Previously, we saw how the state forbids discrimination on grounds of religion in its
institutions. This article specifies that religious instruction is forbidden in state educa-
tional institutions.

Contra-secular features in the Constitution

Until now we have seen that the Indian Constitution aims not only to give the Indian
citizens freedom of conscience and choice of religion, but also to keep religion and reli-
gious affairs out of the business of the state, whether state employment or education.
We have also seen how, on the other hand, there are also clauses in the constitution
aiming at keeping the state out of matters of religion. In spite of these provisions, how-
ever, there often have been difficulties of interpretation which have had to be tested
through the court system, even up to the Supreme Court. Most of these cases have been
about the interference of the state in matters of religion, very rarely about the interfer-
ence of religion in the matters of the State (e.g. Smith 1963:104–107).

Despite its clarity on the separation of state and religion the constitution contains
several inconsistencies on the matter of religion and the state. These occur either in the
original document or in various amendments. Most have to do with subordinate clauses
which in various ways limit the force of the main articles. Almost all of them, in fact,
give the state the power to set aside the previously mentioned rights of religion. The
reasons are not difficult to understand. First, there are, as we have already seen, the lim-
itations which are caused by considerations of public order and the safety of the state.
Secondly, and most importantly, there are important considerations regarding the
intention of the founders of independent India to create avenues for the upward social
mobility of the lowest social classes of Indian society. The Preamble to the constitution
states that the aim of the Indian Republic, among other things, is to secure to all its cit-
izens: Social, economic and political justice, as well as equality of status and of oppor-
tunity. Taking into consideration that India traditionally was a very stratified society, in
which social differences have been conserved, first by the religiously legitimated caste
system, in which opportunities of individual upward mobility were nearly non-exis-
tent, it is easy to see that creating justice and equality is a complicated and difficult task, requiring special measures.

We have already noticed that article 25 confers freedom of conscience and religion to the individual citizen. However, it specifies that this freedom is subject to public order. Furthermore, clause 2 of the same article allows the state to limit the freedom of religion further:

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, financial, 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 classes and sections of Hindus.

It is clear that other than in questions of conscience and choice of religion, the state is in fact given considerable control. The constitution does not answer the question of what religion actually is. This is left to the courts to determine. Here it seems that the courts have laid down a somewhat narrow definition as to what is religion. Accordingly, one may distinguish between matters that are essential to religion, on the one hand, and matters which are non-essential, on the other. In the first group are questions of faith and dogma, in the other, matters which are termed secular. These so-called secular matters concerns primarily administration, and involve issues of an economic, a financial or a political nature. All such matters are deemed by the constitution to be within the jurisdiction of the state. The question of the actual limits of «religious affairs» is a matter which has given rise to many law cases from religious organisations after the constitution’s radification.

The other reason given for the state’s interference in matters of religion centres on social welfare and reform, and the opening of Hindu religious institutions to all classes of Hindus. Here it is clearly the aim of the authors of the constitution to invest the state with means to create social and religious equality throughout Hindu society and to eliminate the age old discriminating practices of untouchability found in Hindu society. Similarly, in the articles protecting citizens against discrimination from the state on the basis of religion etc., we find significant provisions focusing on uplifting certain strata of Indian society. These come in the form of paragraphs of exemption. Article 15(4) states that nothing in article 15 shall «prevent the State from making any special provision for the advancement of any social and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.» This clause, which was added by the First Amendment Act of 1954, means that the state in fact is allowed to perform reverse discrimination especially on behalf of the so-called scheduled castes and tribes which are among the lowest in India’s social order.

Subordinate to this article is 16(4), which permits the state to provide for «reservations of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State». Thus, apart from the general statement in article 15(4) this article specifically allows the state to favour scheduled castes, scheduled tribes, and other socially backward
classes with regard to employment in state institutions. Likewise, in articles 330(1) and 332(1) reservations are made to the overall rule of the constitution that there is going to be no communal electorates to the House of the People and to the state assemblies. Both articles say that there are reserved seats for Scheduled Castes and Scheduled Tribes to the mentioned assemblies.

Finally, we have already mentioned that the constitution prohibits the collection of taxes for any particular religion (article 27). This, however, is challenged by article 290A which has been inserted by the Seventh Amendment Act of 1956 and which states that a specified yearly sum is to be transferred from the states of Kerala and Madras to two religious funds for the maintenance of Hindu temples in those states. This clear breach of the overall sentiment of the constitution can, perhaps, be explained as a remnant of the old princely states of Travancore and Cochin, in which it was customary for the king to support Hindu temples. After the integration of these states in the Republic of India this custom was allowed to persist first in the state of Travancore-Cochin in 1949, and later into the state of Kerala in 1956.

Religion and personal law

The earlier discussion about the relationship between the state and religion according to the Indian Constitution has shown how the constitution in many ways is a compromise between the desire to create one single nation and the multicultural reality found in India. The Indian version of secularism is an attempt to reconcile two different identities: a single Indian national identity and many different group identities based on either religion or caste. This desire resulted in a system which permits the individuals to choose and practice religion and sees to it that the individual is not discriminated against due to religion. The state is seen as neutral and aloof in religious affairs and is not allowed to support any particular religion. However, we also saw that, although the separation of religion and state was probably the ideal, the state, in order to secure social welfare for the underprivileged groups of Indian society, is often allowed to interfere with these rights, especially when they concern collective rights, or the rights of denominations and religious institutions.

This perusal of the Indian Constitution reveals a system in which the state, organised according to Western liberal ideas, tries to control religion for the sake of national integration. In modern India, however, religion and group identities, as compared with most Western societies, to some extent still resist secular influence. The most obvious case is, probably, the legal system and the lingering on of religious personal laws (Larson 2001). This is a point at which the secularist forces behind the Indian Constitution have never completely succeeded. Thus, article 44 of the constitution, stating that «the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India», remains as a reminder of this defeat. It means that legal matters regarding marriage, divorce, adoption, inheritance and succession still to a very large extent rely on the laws of the individual’s religious community. In this way,
there are separate laws for Hindus, Muslims, Christians and Parsees. Sikhs, Buddhists and Jains are in this context treated as Hindus.

In India many types of jurisdiction have traditionally been dealt with by groups, such as families, clans, tribes, guilds or castes, whereas the state, represented by the king, has only taken charge of criminal law and problems of civil law that could not be solved by the individual group or that involved more than one group. Whether we talk about group jurisdiction or decisions made by the king, customary law has always been very important in these decisions.

The beginning of the present system of personal laws goes back to 1772, when the British wanted to take over responsibility for the courts of the former Mogul rulers. At that time the governor of British India, Warren Hastings, recommended that

… in all suits regarding inheritance, marriage, caste and other religious usages and institutions, the laws of the Koran with respect to the Mohammedans and those of the shaster with respect to the Gentoos shall be invariably adhered to; on all such occasions the Moulvies or Brahmins shall respectively attend to expound the law, and they shall sign the report and assist in passing the decree (Gupta 1977:361).

In the beginning of British rule, matters of religion were more or less left to the Indians themselves to regulate. Later on, however, after India was taken over by the British Crown, between 1860 and 1866, the British introduced a Penal Code and a Civil Procedure Code after the principles of British Common Law. Since that time a process of slow renewal, codification, and homogenization has taken place. It is, however, noteworthy that the various codifications and modernizations have mainly dealt with the personal laws of the Hindu majority and rarely with the Muslim laws.

Although we have yet to see a uniform civil code, the process of homogenization has continued after independence. In the years 1955 and 1956 a series of laws regulating marriage, divorce, adoption and maintenance for Hindus were passed by the Central Government (Universal’s Hindu Laws 2004). This regulation and codification of Hindu personal law, which among other things codified the right to divorce and cancelled the right of Hindu men to marry more than one wife, was severely criticized by orthodox Hindus; but, interestingly, it was almost equally criticized by secular-minded people who argued that it was not in accordance with Indian secularism and discriminated between citizens belonging to different religions (Smith 1963:286–87).

A revision of the old Special Marriage Act of 1872 was passed in 1954. It specifies rules for a religiously neutral marriage before a marriage officer. This may be performed in cases of cross-religious marriages or in case of persons who do not consider religion to be important. In these cases, it may, or may not, be accompanied by religious rituals. With the introduction of this Act, many Indians saw this as the first step towards a uniform civil code.

Muslim personal laws have not, however, completely escaped codification by the state. As a result of the famous Shah Bano case in 1985, in which a divorced Muslim woman, after she had applied to the Supreme Court, and in contrast to sharia law, won the right to maintenance, the Rajiv Gandhi government, in order to please the Muslim
opinion, in 1986 succeeded in getting the so-called *Muslim Women (Protection of Rights on Divorce) Act* passed in parliament. Apart from *The Dissolution of Muslim Marriages Act* from 1939, this law in fact for the first time codified an aspect of Muslim *sharia* law (Universal’s *Muslim Laws* 2004).

**Challenges to the secular principles of the constitution and its practice**

As we noticed above, there were, and are, inbuilt contradictions in the Indian Constitution. Although many articles aim at building a barrier between religion and the state, there are also sub-clauses that secure the right of the state to interfere and the rights of individuals and religious groups to practice their religion. The secular principles aimed at are to some extent challenged by the constitution itself. In spite of this, however, it would seem that the constitution and the secular principles did receive widespread approval by the political elites during the first two decades of independent India. Since then, however, the constitution with its secularism has been increasingly challenged and questioned both by and among politicians and intellectuals. The main challenge has come from the increasing success of the Hindu right wing, which already before independence challenged the secular principles of the Indian National Congress. Among the otherwise secularly oriented intellectual elite, however, there have been voices arguing against the traditional secular ideology indicating that this ideology might be in a crisis.

One should, however, not forget that the way the secular system has been practised, especially since the 1970’s, probably also bears some responsibility for the escalation of these challenges. As stated by Irfan Engineer (1998), the ruling elites of India have practised what he calls a «hegemonic secularism» by which he means a policy of negotiating with religious, social or linguistic communities instead of with individuals. It is a practice which he sees as a continuation of the British policy during the colonial period. In performing this ‘vote-bank’ policy, the ruling politicians often placate the leaders of the various communities or minorities, who are in control of the votes of their community, by appealing to religious fundamentalism and by the use of religious symbols, without any real interest in the conditions of the ordinary members of these groups. In their political strategies, these ruling elites employ the traditions of what Charles Taylor (1999:39) calls the «mediated-access society». Some of the more prominent examples of this are the previously mentioned passing of the *Muslim Women (Protection of Rights on Divorce) Act* by the Congress Party and the immediately following opening of the Ram temple in Ayodhya in order to please the Hindu voters. This kind of politics has even led to tacit accept of violence (Nandy 1999: 338–44). It would not be wrong to say that communal politics has increased in the sense that religion and caste have been playing an increasing role in Indian politics since independence. Another aspect of this is the fact that the system of reservations and special quotas, instead of decreasing with the gradual uplift of the underprivileged strata of society, has
on the contrary become more and more important. The main outcome of this is the report of the so-called Mandal Commission in 1980, which recommended that special 
quotas be given not only to scheduled tribes and castes but also to the group of castes 
going under the name «other backward classes». In this way, it recommended special 
quotas for more than half the population.

If, in this way, the management of the secular, democratic republic of India has led 
to a «mediated-access», instead of a «direct-access society», the Indian secular system 
has, as previously mentioned, also been severely attacked by forces from within the 
political system. Thus, it is well-known that rightist Hindu organisations such as the 
Hindu Mahasabha and Rashtriya Swayamsevak Sangh (RSS) since before independ-
ence, instead of the neutral, secular state envisioned by the Indian National Confe-
rence, favoured a Hindu state (hindurashtra). During the first three decades after inde-
pendence, these anti-secular forces were no serious threat to the secular system. How-
ever, this situation started changing in the first half of the 1980’s and culminated with 
the National Democratic Alliance government, led by the Bharatiya Janata Party (BJP) 
in Delhi from 1998 to 2004. A major reason for the political success of the Hindu right 
would primarily seem to be exactly the earlier mentioned political practices. Thus, the 
success of the mobilization campaigns run by the BJP and the Vishwa Hindu Parishad 
(VHP) would probably not have been so overwhelming had it not been for the way the 
Congress Party tackled the Shah Bano case and the attempt of implementing the sug-
gestions of the Mandal Commission.

In fact, critique of the constitution and its secularism plays a very important part in 
the political strategy of the Sangh Parivar, or Sangh Family, which is the name often 
given to RSS and affiliated associations, such as BJP and VHP. Thus, BJP’s main polit-
cical enemy, the Indian Congress, is again and again characterized as pseudo-secularists 
referring to the previously mentioned policies of favouring separate ethnic, social or 
religious groups in order to get their votes. Against this, the BJP argues that they are 
the only true secularists, and one of their major political agendas is their demand for a 
uniform civil code and an end to the practice of religious personal laws. Probably, the 
reason for this argumentation is the fact that, in contrast to the Muslims whose personal 
laws are still administered according to sharia, the personal laws of the Hindus have 
already, as previously mentioned, been subject to modernization.

If the BJP to some extent had come into power due to their critique of the malprac-
tices of the established political parties, they, however, themselves had from the start 
been victims of communal strategies. Critique of the secular model, has, however, also 
come from another quarter, namely from the intelligentsia which in general previously 
has been supportive of the secular model. Most influential in this respect are, probably, 
the writings of Ashis Nandy who in a series of essays has criticized Indian secularism.¹ 
Nandy, it seems, favours neither the secularism of the Congress or its Hindu nationalist 
critics. Both are of one piece, favouring the same state, a state which he sees as a 
product of Western colonialism. Instead of Western-inspired secularism which accord-
ing to Nandy has only led to exploitation and violence, Nandy looks to the indigenous 
religious tolerance which he argues is found among the non-ideological and truly faith-
ful Indians, nowadays mostly found in the rural areas, and which he finds embodied in
Gandhi and his ideology. Nandy’s vision is indeed a tempting one, and his critique of the secular state and its management is often to the point. A weakness of his thoughts is, however, that it is difficult to see religious tolerance as more than a shady utopia, not able to govern a modern state.

Conclusions

In this paper we have seen how India may be perceived as a secular state in the sense that it is the goal of the its constitution to secure that the state does not have special relations with any particular religion, and likewise to secure that matters of the state and the relation between the state and its citizens are not influenced by religion. However, we have also seen how, in order to apply the ideals of social and economic equality, the state is at the same time allowed to interfere in the affairs of religious denominations and institutions and to make special reservations for the sake of the lowest strata of the population.

If this seems to point to a strong state and a weak religion, it is, however, important to keep in mind that Indian secularism is not motivated by enmity towards religion. On the contrary, religion in India is in many ways more visible in the public sphere than is the case in most Western societies. One aspect of this, is the important position religion still plays within the judicial system in regulating marriage and divorce, adoption, succession and inheritance. Likewise, we rarely see discussions about the use of religious symbols and religious dress code in public space. Questions such as these are largely irrelevant because of the age-old and imbedded religious pluralism which exists in India. Unfortunately, the question about what one may say about representatives of other religious communities has become increasingly important with the rise of Hindu nationalism. There are rules regulating this in the Indian Penal Code; however, they are rarely invoked.

It is difficult to say exactly what can be learnt from the Indian secular model. Probably, it is very different depending on what ones political position is, whether one is a hardcore, modern secularist who wants religion completely out of the public sphere, or one is in favour of a multicultural, multi-religious society, with as much diversity as possible. India remains somewhere midstream and may be taken as model for both these positions, although everything points in the direction of an increasingly stronger state.

Notes

1 This article is a revised version of a paper delivered at the conference «Migration, religion and secularism – a comparative approach (Europe and North America)», in Paris June 17–18, 2005. My thanks go to associate professor Kenneth Zysk of the Asian Studies Section of the Department of Cross-Cultural and Regional Studies, University of Copenhagen, for revising my English.
Another much read criticism of modern Indian secularism is Madan (1999). See also Bhargava (1999:345–542) for other contributions to the debate about modern Indian secularism.

References