

**Book Review**

# India: How Secular?

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India as a Secular State by D E Smith, Princeton University Press, 1063. Pages xx + 518, price Rs 30, Distributors in India: Oxford University Press.

INDIAN secularism has a peculiar quality: it is and yet is not. Any careful analysis of the subject of secularism is confronted by at least four major problems. First, one has to consider the conceptual aspect. The need for clarity in this regard can hardly be over-emphasised. Yet, how far can a generalised concept of secularism be made to fit into the Indian mould? Will the traditional Western concept of rigid separation of the religious and the political, and a clear differentiation of their separate and autonomous spheres, be appropriate in the multi-religious Indian context? It is difficult even to draw out the subtler implications of the term 'religious' without embarking on an essay in comparative sociology.

**Main Issues Side-tracked**

The second problem is legal. While a uniform civil law is imperative for any state that purports to follow a secular pattern, the very creation of this uniform law would involve measures contrary to secularist principles. This dilemma is of crucial relevance to India where, for centuries, civil law has been dispensed largely on the basis of 'personal' law in the case of Hindus and Muslims. How far, one would ask, is interference with religion justified in the interests of the creation of a body of unified civil law?

No less intriguing are the implications of a policy of religious neutrality in the field of social reform. Such reform can be effective, only if initiated by the State; but many of these 'social measures do impinge upon the religion of the people.'

Lastly, there is the question of religious freedom and the fate of religious minorities. Closely connected with this is the problem of extremist religious and communalist activities.

Professor D E Smith's is an elaborate attempt to present a logical analysis of Indian secularism. How far he succeeds, it is difficult to say, given the elusiveness of the subject. Smith tries to present us with a com-

prehensive framework of inquiry, but, in his scrupulous attachment to analytic niceties and neat categorisations, he tends at times to lose sight of the overall perspective. The result is, very often, a series of observations which sidetrack the main issues and which one can only with difficulty consider relevant. Furthermore, it is often difficult in the maze of documentation and 'quotes' to detect the author's own observations and judgments.

**'Wall of Separation'**

As regards the conceptual scheme adopted (dealt with in Part I), Smith finds three criteria for the use of the term 'secularism'. They are: (1) freedom of religion; (2) citizenship; and (3) separation of the State and religion. Of the three, the first two pertain to the realm of liberal values, taking as they do, an atomistic conception of the individual. The crux of the conceptual problem, however, revolves around the third, and more precisely around the choice between two distinct "theories" — the 'no-preference' theory and the 'wall of separation' theory. By the first is meant not so much non-interference as the absence of preferential treatment of any particular faith. The second theory envisages a complete, watertight separation of the religious and secular spheres. Smith is committed to the second theory (see p 129n). It is relevant to consider the implications of the choice.

The problem of religion in India is, in some respects, *sui generis*, and no western conception can really fit in. True, parts of Smith's conceptual framework are derived from the Indian Constitution, but that does not obscure its foreignness. There is no tradition of a clear separation of the religious and political spheres in India. "Render unto Caesar that which is Caesar's and to God that which is God's" was relevant in the West, but religion in India has grown concomitantly with certain social practices. With the socialisation of religion, many customs have come to acquire

religious sanction. What came to be known as the Hindu religion was a great deal more than the moral, theological, philosophic, and mystical speculations of the ancient sages; it included a whole area of social relationships. To demarcate these relationships and to redraw the line between custom and religion would have required either a highly institutionalised clergy, or a secular political system. It is the political system that takes the initiative in modern times. In such circumstances, one would think that at least in the transitional stage, it is a 'no-preference' theory rather than a 'wall of separation' theory that would be applicable to India.

**Evolving a Uniform Law**

A uniform civil law is in many ways at the heart of the secular political system. How is a uniform law to be introduced in a society that has been regulated for ages by parallel systems of 'personal' law? This difficulty was seen as early as during Macaulay's time when he argued the need for a uniform *lex loci* in India. While the Law Commissions, initiated by Macaulay, were able to unify criminal law, hopes of the regulation of Civil Law were not readily realised. Smith is rather optimistic when he says (p 134): "There is a good chance that 20 years from now, many of the anomalies will have disappeared. It is reasonable to expect that, by that time, there will be a uniform civil code; that Hindu and Muslim law, as such, will have ceased to exist".

A paradoxical situation indeed! In order to establish a secular state in the future, the state is forced to abandon secularist principles of non-interference with religion at least temporarily. Smith, as he looks at the entire process of Hindu Law reform, ruefully admits this constitutes interference. He is not slow, however, to see that in the case of Muslim Law, even state initiative would not be effective. Thus he says (p 422-23): "The secularisation of law is absolutely essential to the evolution of

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50  
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60  
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the modern sovereign state; the present system is an anachronism. The Hindus, Sikhs, Christians, Parsis and other communities are, on the whole, prepared for the enactment of a uniform civil code: the Muslims are not". The author agrees that, on the one hand, state action for legal reform is ruled out; on the other hand, the Islamic clergy is, he says, itself unprepared. Who then is to effect this unification? Will this be completed in the span of the next 20 years? Smith has no definite answer. It may, however, be useful to note President Ayub's experience in Pakistan where, in 1961, he promulgated the Muslim Family Law Ordinance by which serious changes were made in the Muslim family system. Action on these lines would, inevitably, bring the state into the picture; but then the problem is of such crucial importance that it calls for a "this or-nothing" solution.

#### **Religious Reform**

Referring to religious reform and state initiative, Smith sees a situation not much different from that in the case of law. Much can be said about the unsecular policy of state interference in the field of social reform. In the case of the Hindu religion, however, while it did produce an organized theological system, there was no organized, institutionalised clergy to regulate religious affairs. It is to this fact that the author takes us time and again and with good cause.

Smith makes a distinction between a 'positive' and a 'negative' role of the state in 'socio-religious' reform. "Religious reform *per se* is not a valid function of the secular state," he says (p 233). There can be no question of official promotion of any religion or interference with religious liberty. But reform may be effected on other grounds (economic, social or even humanitarian grounds) which may *incidentally* affect religion. But how far can the Temple Entry Bill be interpreted as incidental interference? True the basic idea is to assure equality, but it does constitute 'positive' interference. This is not to question the desirability of the reform, but just to show that interference can be justified on humanitarian grounds. Here at least, Smith's 'wall of reparation' theory does not help him.

However, one need not, as the author has done, impute sinister motives to this move for reform. It is plated out what is intended is to give

Hinduism "respectability" (p 235) and that the aim of the reform is proselytisation or at least prevention of conversion of Hindus to other faiths. Why should one think that a particular religion, *albeit* the majority religion is being favoured (or controlled, for that matter)? There have also been reforms such as the Muslim Waqf Act, the Sikh Gurudwara Act, etc. What should be stressed here is rather a rigid adherence to the principle of 'no-preference'. In the case of Hindu Temples, the author points to the unhealthy trend in Madras legislation pertaining to the administration of temples and religious endowments. He does, however, commend the approach of the Bombay Public Trusts Act of 1950 as being more in consonance with the declared principle of secularism. Strangely, Smith concludes his argument about religious reform by reverting to his original premiss that "religious reform need not proceed by legislation and state interference, as is so often presupposed in present day India". This is dogmatic, considering his understanding and acceptance of the need for state interference in the Indian situation.

#### **Two Approaches**

With regard to the protection of minorities in a secular state. Smith suggests two broad approaches that have been adopted by states in history (p 405): (1) integration of the individual, by assuring his equality; and, (2) protection of the group by providing some sort of a *cordon sanitaire* around it — in effect by insulating it from other socio-religious groups. While the second method has been adopted in certain West Asian states, e.g. Lebanon, and was adopted for some time in British India, attempts have been made contemporaneously to evolve an approach that runs along individualistic rather than communal lines. Thus, while it was suggested originally that separate communal electorates should be provided, this idea was eventually given up.

While this individualist, citizenship-oriented approach is commendable, in actual practice, the minority-communal problem is too serious to be ignored. Having lived a separate cultural existence for ages, Muslims find it necessary to make a serious emotional adjustment. However, the success of the group approach depends to a very large extent upon the attitudes of the different communities to the principle of secularism. The consciousness of religious affiliation should

disappear from politics and this can be done, not by strengthening communal groups, by recognizing them and giving them formal sanction but by ignoring their existence (formally) and checking them by stern measures (in practice).

#### **Problem of Sikhs**

Communal suspicions cannot be wiped out by mere indifference to the problem. Smith would have us change our attitudes towards the communal problem, as well as tighten the efficiency of the administration in dealing with the intransigent. However, while he is not in favour of the "group isolation" approach, he seems almost to imply the opposite when he goes on to comment on a *New York Times* remark on the appointment of M C Chagla as Ambassador to Washington. The paper labelled the appointment "one more blow in his (Nehru's) battle for a truly secular state". This remark could mean one of two things: either the post was given to Chagla by virtue of his being a member of a minority community, in which case the remark is inaccurate, or because of his personal merit, in which case the remark is uncalled for. Both ways the introduction of the remark only prejudices the author's argument.

Smith is confident that the Christian minority is prepared for a secular state. With Sikhism, 'an edifice built with Hindu bricks and Muslim mortar', one encounters a new dimension in the minority problem. While such affairs as struggles for Gurudwara control are purely religious, their immense bearing upon the politics of the region make Government control unavoidable. Thus (p 447) he says, 'The Gurudwaras appear to be hopelessly enmeshed in Punjab politics'. He makes it clear, however, that the Sikhs have not been discriminated against (p 453). As regards the extremist — revivalist and communal groups such as the RSS, Jan Sangh, the Hindu Mahasabha, etc, the author points out that the support for them varies in direct proportion to the prevalence of communal tension. He does draw attention to the existence of communal elements in the Congress and their role as a reactionary force. He has, however, little to suggest that is concrete and practical as a solution.

Smith has discussed the relevance of caste, education and language to secularism. He refuses to recognise

Gandhiji's contention that caste is separate and distinct from the Hindu religion. He further feels that Government policy has in some respects strengthened caste consciousness (p 326). In the field of administration the reservations made for backward classes open the door to many unedifying practices. Thus, in Andhra, 50 per cent of Government posts are reserved for these classes; this vested interest in backwardness is evidenced even in education, as in Mysore where 68 per cent seats are reserved (p 320).

The author concludes (p 321) that economic rather than religious criteria should be adopted to determine backwardness. In education, he considers the feasibility of religious instruction in schools (the Radhakrishnan Report) and the question of state aid to private schools, and concludes that "in the very nature of things, the State must assume the major burden in the educational task of consolidating national unity".

About language, Smith gives an unwarranted religious perspective to a

predominantly regional problem. The controversy over Urdu was not a Muslim-Hindu controversy. (In fact, at one time, the foremost patrons of Urdu, Sir Tej Bahadur and Motilal Nehru, were Hindus!). He further misplaces the emphasis when he explains the choice of Hindi as the national language. Hindi was chosen, not because it was a Hindu language or *per se* because it was derived from Sanskrit, but because being derived from Sanskrit it is more akin to the other regional languages in India.

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