

Contextualizing the Concept of Secularism in India

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To understand secularism in the Indian context we have to go through transitional and hybrid scholarship and pluralist perspective. 'It is in the strictest sense a medley, for they mix but do not combine. Each group holds its own religion, its own culture and language, its own ideas and ways. As individuals they meet, but only in the market-place, in buying and selling. There is a plural society, with different sections of the community living side by side, but separately, within the same political unit.' (Furnivall, 1956: 304). David Apter (1965) finds that modernization is the process of liberating mankind's capacities for promoting creativity, productivity, and leisure through the accumulation of scientific knowledge for integrating social forces. Modernization is expressed through two interdependent and conflicting desires – desire to be recognized as responsible agents and desire to build modern state (Geertz, 1963). Modernity requires both cohesive identity for social order and legal-rational Leviathan that can impose order within a bounded order. Primordial loyalties like blood ties, race, language, religion tend to play on sub-national, sub-state and transitional planes.

Secular principles are related to the existence of man. Secularism means the moral duty of man and is associated with positivism. Secularism is known by affirmative propositions and associated with humanism, moralism and materialism. It is concerned and associated with four rights – the right to think, right to differ, right to convert and right to debate. J.S. Mill in *On Liberty* says that 'if all mankind, minus one, were of one opinion, and only one person were of contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind... The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion... If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose...' (Mill, 1961: 269). The distinctive peculiarity of secularism is that it seeks good, which is dictated by Nature, which is attainable by material means, which is of immediate service to humanity – a religiousness to which the idea of God is not essential. But the principle of normativity is involved here, that would demand the right of the individual as citizen to good life irrespective of religious affiliation or communal obligation. This individuation of persons and interests is the resultant effect of modernization process. It is not a value choice for society but an indispensable need for the society. 'Modernization – bourgeois property, urban life, capital accumulation, non-sacral education, industry, and so on – however exploitative and uneven under colonialism was that led to economic integration, uniform administrative control, and cultural harmonization through codification and so on... Individuation of persons and interests in the society was one consequence of this (Alam, 1998: 5).

The non-modern and traditional conception of secularism is peculiar in this respect. He was against Hinduization of politics and militarization of Hinduism. He wanted to profess spiritualization of political life. He had a particular conception of religion and politics and tried to make a symbolic relationship between religion and politics on that ground. Because, to him, politics had to be moral and based on morality and religion was the source of morality. In *The Story of My Experiments with Truth* (1929) he said, 'My devotion to Truth has drawn me into the field of politics... those, who say that religion has nothing to do with politics, do not know what religion means.' (Gandhi, 1929: 591). He said that politics separated from religion and religion detached from politics is meaningless. However, during the 1940s Gandhiji began to assert that religion or denominational religion should be kept separate from politics and religion should be treated as private. In 1947 Gandhi said that the state was bound to be wholly secular that no denominational educational institution should enjoy state patronage. Henceforth, Gandhiji had a modern and holistic understanding of secularism –

- 1) There should be separation of religion from politics, economy and education, not from the life or private life of the individual in a secular state, where religion is not discouraged as a way of life.
- 2) The state should be neutral to all kinds of religious activities and should show equal respect to all.
- 3) There should be equal citizenship and no discrimination on the grounds of religion.
- 4) Secularism should be treated as an ideology of nation-building. It is an ideology in opposition to communalism.

'The no-concern and equal-respect positions on secularism clashed constantly during the debates in the Constituent Assembly... Most members felt that – neither a position demanding a right only to religious worship, the recognition by the state of no minority, whether religious, linguistic or sexual, the establishment of a uniform civil code, no political safeguards for any minority and no religious instruction in any state schools, –

nor its mirror opposite, claiming a right to the practice of religion, state recognition for religious as well as linguistic minorities, personal laws to be included in fundamental rights, political safeguards for all religious minorities, and religious instruction in state schools, captured the requirements of secularism in the context of India's social diversity.' (Jha, 2002: 3180). Now, we are in apposition of state neutrality and equidistance from all religions. I do prefer the mirror opposite side mentioned above and protection of groups rights and identities in the midst of nation-building process giving an inescapably "statist" orientation to the very conception of any political unity across religious communities and other social divisions. In fact, religious and cultural diversities have made secularism essential for democracy and national integration. Secularism would have to make national integration with multicultural perspective and strong underpinnings for non-majoritarianism. Pluralism is not inconsistent with national integration and secularism and a uniform civil code would be counter-productive (Sathe, 1995). The state for national integration should recognize religious matters in order to differentiate it from the non-religious. (Roover, 2002). 'The Constitution has not erected a strict wall of separation between the church and the state. We have grave doubts whether the expression "secular state" as it denotes a definite pattern of relationship can with propriety be applied to India... There are provisions in our Constitution, which make one hesitate to characterize our state as secular... Secularism in the context of our Constitution means only an attitude of live and help live.' (AIR, 1974: 1434). In several judgements the Supreme Court regards that secularism envisages a cohesive and unified society and goes beyond religion. It is based on the principles of accommodation, neutrality and tolerance. Secularism sans protection to minority religious groups and therefore creates majoritarianism. But I do not agree with this account of secularism. I agree that special protection measures need to be undertaken to protect minority interests. In *State of Bombay vs. Narasu Appa Mali* case the Supreme Court held that personal laws do not fall within the ambit of laws in force and are not void even if they are in conflict with fundamental rights. 'The secular state functions within a society that is... diverse, which has individuals and groups with different, often conflicting conceptions of ultimate ideals... a state is politically neutral,... In a pluralist community one tolerates the other not despite one's disagreement but on the understanding that incommensurable values cannot always be realized at the same time in the same sphere, and that, therefore, one has to tolerate the limitations of others... the pluralist version of ethical secularism which is both secular and communitarian... It is superior to political secularism...' (Bhargava, 1994: 1790).

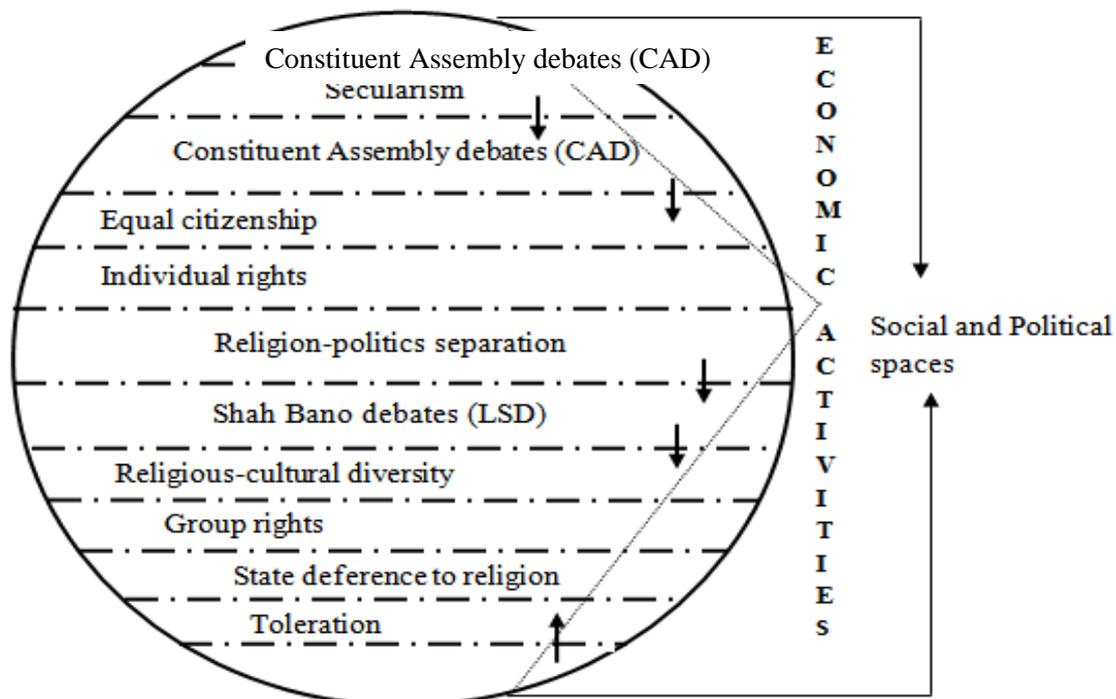
Considering the question of cultural diversity some liberal theorists like Rawls attempted to develop an idea of 'justice as fairness' – individual rights must be differentially distributed on the basis of culture. In order to meet the challenge of diversity, the challenge of right to culture a multiculturalist perspective within agreed set of universalist values and culture of rights is essential. '... a right to culture is believed to be a collective entity but for liberals collective rights cannot exist. This flows from the liberal commitment to individualism, to the view that only the individual defined in abstraction from other individuals is the final source of moral and cognitive authority and he alone is the ultimate unit of moral growth... A second argument also stems from the liberal tie to atomism... Rights of culture, so the argument goes, are always used to restrict or violate individual rights. Therefore they cannot be accommodated within a liberal framework.' (Bhargava, 1991: 165-72). I also agree with Bhargava that right to culture depends on culture of rights, which essentially comes to the question of differences that can be settled or solved peacefully and through reason. Partha Chatterjee (1994) in his understanding of secularism places toleration as important, premised on autonomy and respect for persons and the principle of respect provides a moral judgement for toleration. In his analysis of secularism and minority rights Chatterjee (1994) puts forward Foucault's concept of 'governmentality' and I do accept that power is not concentrated, but dispersed and entrenched in modern society cutting-across the liberal division between state and civil society, division between monopoly of legitimate violence and area of freedom, that 'cutting across the liberal divide between state and civil society there is a very specific form of power that entrenches itself in modern society, having as its goal the well-being of a population, its mode of reasoning a certain instrumental notion of economy and its apparatus an elaborate network of surveillance... The idea of governmentality – and this is its second important feature – insists that by exercising itself through forms of representation, and hence by offering itself as an aspect of the self-disciplining of the very population over which it is exercised, the modern form of power, whether inside or outside the domain of the state, is capable of allowing for an immensely flexible braiding of coercion and consent... distributing itself throughout the social body by means of the technologies of disciplinary power, the modern regime no longer retains a distinct aspect of sovereignty.' (Chatterjee, 1994: 1774-1775). As power spreads over civil society, then the recognition and protection of minority rights and secularism are important. The disciplinary power and the concept of panopticon are also useful in the analysis of governmentality. The question of minority rights is intended to ensure democracy with difference – 'special rights are being claimed in the name of equality, and sometimes in the name of difference – the claim in the latter case being that members of the group have special interests that can only be met by giving them rights tailored to their particular circumstances, rights that have no counterpart among the rights enjoyed by the majority.' (Miller, 2000: 61). Groups are important centres of power and group rights are important in modern society, whose 'non-recognition or misrecognition can inflict harm, can be a form of oppression,'

(Taylor, 1994: 25). These are ‘third generation human rights’ – these rights are necessary arrangements in a just social order. Identities may be threatened by minority-rights arrangements, which are likely to threaten the smaller groups and larger groups that encompass the smaller groups. Andrew Blum rightfully points out in this respect that – ‘minority ethnic groups that have salient, non-territorial, non-fluid identities are good candidates for minority-rights arrangements.’ (Blum, 2001: 105). One type of arrangement is confederation based on consociation and bargaining, where the protection of group and individual rights, promotion of democratic values of political participation, accommodation of diverse values and promotion of civic virtues are protected and secured. Small confederation is susceptible to foreign aggression and economic disadvantages, which, according to Montesquieu can be solved through confederation of small city states by mutual agreement getting together to safeguard common interests and allowing every member the right of veto and to exit from confederation. The task of confederate government, by the rule of unanimity based on the theory of bargaining (Coase, 1960), would be to provide property rights so that the integrity of participating states is protected and agreement among them for the control of inter-state spillovers and the provision of public goods is facilitated. Federalism can be defined in terms of division of power as primary condition and written constitution, bicameralism, overrepresentation of the smaller component units, right of the component units to be involved in the process of amending the federal constitution, and decentralized governance as secondary conditions. There is a closer relationship between consociationalism and federalism (Lijphart, 1979). In spite of that there is the possibility of failure of bargaining and repression of minorities in confederation, which has to be properly solved. Modern city states do not appear to be unique protectors of democratic rights and civic virtues. Efficient bargains which underlie the economic case for the confederation’s central government are unlikely to be achieved in practice. Against these facts, confederate republics may just as easily be unjust and inefficient. Alternatives must be considered. (Inman and Rubinfeld, 1996).

The impulse of governmentality in India has been to seek some rationale of legitimacy, where force alone has become unable to sustain democracy and governance; rather the rulers and subjects have recognized the higher rationality that took government to religion, caste and minority groups. Three important developments in post-independence India may be pointed out here – monopoly of Hindu religion broke down, search for state patronage of religion increased, and greater scope of non-Hindu forces, which sought legitimacy through the approval of their religions by the state. What it signifies is that it is a state which honours all sects and religions equally, but not state religion as such – no real nationalism or nation-building can be built up except on the basis of secularism (Nehru, 1961). And in fact, it essentially means the substitution of the idea of the individual with equal rights and duties as the unit of society and a society of such equal units, for the idea of groups of unequal individuals with varying rights and duties arranged in ascending order of magnitude (Spear, 1951).

In India secularism is approached as a discourse to reconstruct the political space so that religion and the state can co-exist. The secular aspect of nation-building in post-colonial context has never been fully in touch with the masses – there is a gap between the elite and the masses, gap between secularism as an ideal and its implementation. There is a gap between secularism as an institution and secularism as an ideology. ‘...religion in South Asia,... has split into two: faith and ideology... By faith I mean religion as a way of life, a tradition which is definitionally non-monolithic and operationally plural... By ideology I mean religion as a sub-national, national or cross-national identifier of populations contesting for or protecting non-religious, usually political or socio-economic, interests... Most non-modern Indians... pushed around by the political and cultural forces unleashed by colonialism still operating in Indian society,..., while India’s westernized intellectuals have consciously opted for the abolition of religion from the public sphere... it is from non-modern India, from the traditions and principles of religious tolerance encoded in the everyday life associated with different faiths of India, that one will have to seek clues to the renewal of Indian political culture... cosmopolitan intellectuals... have failed to be respectful to the traditions of tolerance in Indian society.’ (Nandy, 1997: 330, 333-334, 340). I do support the first one (religion as faith). Religion as an ideology is associated with individuated self, which is different from non-self of plural entity. Individualization is taking place in South Asia, especially in India with the secularization process. The top-down secularization process has failed in India. The Supreme Court has failed to uphold the spirit of secularism in India. The decisions of the Indian Supreme Court indicate that the Court was mindful of change in Shah Bano and Sarla Mudgal cases, but did not produce sufficient coherence, consistency and impartiality. The Court cannot legislate, but could be more mindful of protecting religious minorities and preventing the abuse of religious rhetoric in politics. Supreme Court’s impartiality came into question in cow slaughter case or Hindutva case (Baxi, 2000). ‘The significance of the Hindutva decision lies in the Court’s unwillingness to deny the dominant religious group’s attempts to define the cultural fabric of India in its own image. The Court’s decision seems at odds with the constitutional structure recognizing the necessity to allow minority religious groups the legal and political space to define their identity in their own terms.’ (Yildirim, 2004: 916). The basic reason for the failure of secularization process is the most visible reference point of Western man – ‘the process by which sectors and culture are removed from the domination of religious

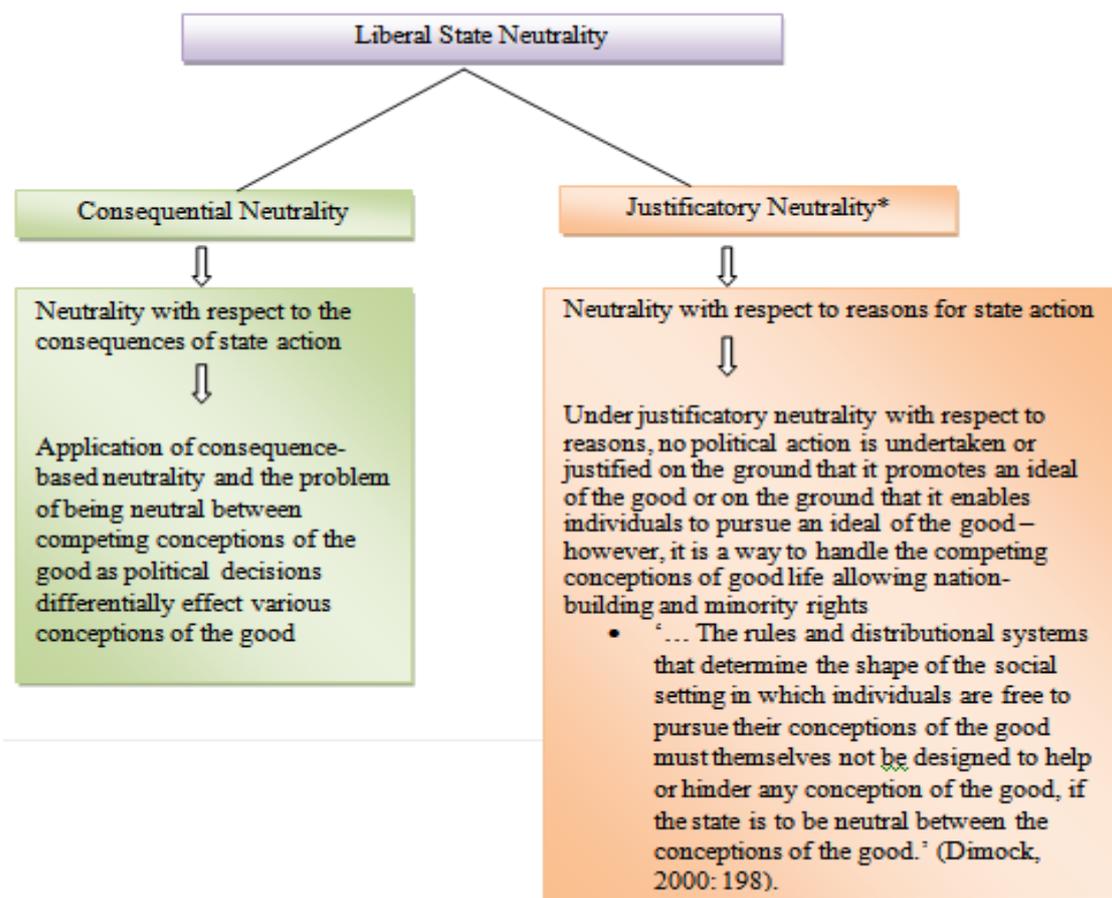
institutions and symbols (Berger, 1973: 113). In fact, Indian secularism has been inadequately defined and must be adequately defined and placed. Following T.N. Madan I do accept that secularism is an alien concept, which must be properly institutionalized, this secularism needs strong support of the state. ‘Secularism must be put in its place; which does not mean rejecting it but of finding the proper means for its expression. In multi-religious societies, such as those of South Asia, it should be realized that secularism may not be restricted to rationalism, that it is compatible with faith, and that rationalism is not the sole motive force of a modern state.’ (Madan, 1997: 345-346). Liberal multiculturalism recognizes the importance of cultural identity and understands how such recognition can simplify tensions between minority and majority populations. The process of negotiating differences normally pluralizes the differences and secularism must be placed within that differences. ‘We must take cognizance of the fact that India is a religious minded country. Even while we are talking of a secular state, our mode of thought and life is largely coloured by a religious attitude to life... the state in India cannot be secular in the sense of being anti-religious... It implies that citizenship is irrespective of religious belief...’ (CAD, Vol.VII: 881-882, 1057). This view of K.M. Munshi is associated with religious pluralism and the importance of religion in people’s lives. In the Constituent Assembly debates the representatives of Muslim League argued that under a secular state there must be a common law observed by its citizens in all matters, including matters of their daily life, their language, their culture, and their personal laws. But this is not a correct way to look at this secular state. In a secular state, citizens belonging to different communities must have the freedom, to practice their own religion, observe their own life and their personal laws should be applied to them (CAD, Vol. VII: 544). The imperatives of equal citizenship and the dangers of mixing religion and politics were the central justification of secularism in the Constituent Assembly debates and in the Shah Bano case the prime justification was equal respect for all religions – the state should respect the religious beliefs of minority groups. The state has no religion – there should not be complete separation between religion and politics – the state is governed by Constitution which guarantees full protection to all minorities, which guarantees them their faith, their profession, their religion and their culture. The Shah Bano debate propounded this type of secularism – recognized the cultural diversity of the Indian society – identified secularism with religious and cultural diversity besides the commitment to equal citizenship. I do agree with Congress Law Minister, A.K. Sen and Congressman, H.R. Bharadwaj’s arguments – ‘the Constitution sets up a secular democracy,... it sets up a fine mosaic where each community has its own part to play, its own culture to show... and its own philosophy to flower... If we start on a fine mosaic and try to draw one single pattern all over the country, then we shall be playing absolutely against the very foundation of our philosophy’ and ‘we have time and again emphasized that secularism is not that we should have one type of thing for everyday... everybody will have his own Personal Law.’ (LSD, col.516, col. 476). Secularism should be in juxtaposition with toleration. Diagrammatically, it may be presented as below:



Contextualization of Indian Secularism

Both connotations (Constituent Assembly debates and Shah Bano debates) are not poles apart, but are interactive in nature. However, ‘connotations of secularism in both the Constituent Assembly debates and the Shah Bano debates drew upon standard Western liberal-democratic notions as well as indigenous cultural and historical idioms.’ (Bajpai, 2002: 194).

The concept of liberal state is associated with the concepts like freedom, individual rights, constitutionalism, democracy and toleration. It can be understood that liberalism is ‘a theory of the good life for individuals linked to a theory of the social, economic, and political arrangements within which they may lead that life’ (Ryan, 1995: 303). The government should be committed to tolerating the views and cultures of its people. Groups are corporate entities with a standing in the legal or governmental process. The liberal state is not committed to displaying neutrality to those persons whose actions harm others. The nation-building process in liberalism includes national educational curricula, state patronized national media, adoption of national symbols and official language laws, citizenship and naturalization laws, equality of opportunity and modernization of the economy etc. If the liberal state ‘functions to protect and perpetuate one culture, then surely liberal justice demands that it protects and perpetuates others as well’ (Poole, 1998: 121). The state, according to liberals, would do provide good life held by citizens. Liberal conception of neutrality may be presented here in a graphic form-



The communitarians have suggested an alternative basis for political majority and conception of good – for equality, fairness, liberty and legitimacy, suggested social basis of rights, *i.e.* the community consisting of classes, castes, religious sects and ethnic enclaves etc. Communitarians find weakness of the liberal view of political morality is that it fails to establish general meanings for the key ideas of liberal argument, such as liberty, consent, interference, equality and privacy etc. The consensual model of nation-building is needed, where substantive good should make a compromise with procedural good. ‘Democracy will not be adopted as a procedural good so long as there is no agreement – whether manipulated or not, whether because of desperate circumstances or not – on some substantive goods. There is, then, no room at any given time in a democratic community for differences on a number of substantive issues. Differences on these issues will have been resolved through understandings needed for adopting democratic procedures. Without these understandings, the procedural community cannot underwrite a political morality.’ (Fisk, 1993: 604).

In India democracy should not be confused with secularist strategy to purify public space from religion in a world of religious pluralism. Liberals like Rawls (1993), in opposition, says that reasonable religions provide one of the many competing and opposing comprehensive schemes citizens have to draw on. Kymlicka (1997) rightly argues that the ‘analogy between religion and culture is flawed... It is possible for a state not to have an established church.’ (Kymlicka, 1997: 21, 27). Complete separation and neutrality are misleading. In fact, non-neutrality should be directed exclusively and implicitly against liberal separatism and state neutrality, against religious fundamentalism of intolerants. The fundamentalists do not offer an alternative. In fact, non-neutrality and public morality are inevitable principles of secularity. ‘The case for reciprocity, and more generally for the deliberative perspective, must be defended on substantive moral grounds, and there is no reason to expect that such a defense would have the same positive or negative implications for all moral positions.’ (Guttman and Thomson, 1996: 67). The role of religion is important in society – ‘religion... provides a valuable counterweight to the state... Just as we need opposition parties to check the government of the day, we need powerful non-state institutions to check the statist manner of thinking, including the glorification of the state. If religion is prone to the vice of fundamentalism, the state is prone to the equally undesirable evil of nationalism (Modood, 1996: 21). We need powerful non-state institutions.

However, Indian secularism is majoritarian. It is the nationalist brand of Indian secularism. It serves to legitimize India’s political system through the formula of *sarva dharma sambhava*. It is the politics of religious accommodation that have created hegemonic majoritarianism that has failed to deliver goods in civil society. The dominant or majoritarian nationalism and secularism may be stated below as Namboodripad puts forward – at the central level the dominant ruling group tried to establish a ‘fake’ “unity of nations” by denying the right of every nationality and social groups to have equality of opportunity and status in a democratic set-up. There is a ‘fake’ “struggle” between nationalism and fissiparous forces. The dominant section of the bourgeoisie is trying to maintain its domination over the working class and other sections of their own class. With the weapon of “national unity” the dominant monopoly group tried to bring their competitors into submission (Frankel, 1978). The majoritarian secularism is a symptom of wider disease of modernity and rationality, homogeneity and similarity that are entrenched in the institutions of modern state legitimized through the slogans of national integration, security and development and unity-in-diversity. Indian secularism is shaped by political expediency, by electoral and power struggle between leaders and by social conflicts. Majoritarian secularism represents accommodation and moderation, religious heterodoxy and tolerance. Its project is to manage a compromise between various communities while representing the will of the majority community. It may be pointed out here that Indian secularism is an inappropriate ground for meeting the challenge of Hindu nationalism or majoritarianism, because religion-state separation does not provide protection for the minorities and the neutrality of state is not applicable in India as the state has intruded into the personal laws of the religious communities selectively. The religious groups in India really feels that their demands and voices do not penetrate the public space, are systematically being ignored by the majority community, their views of looking at problems are different from that of majority community. At present there is a shift from hierarchal mediated-access societies to horizontal direct-access societies, where there is no heterogeneity of hierarchical belonging, which makes uniform and equal individual citizens, makes all religious and ethnic communities as equal. This type of society would have to make a balance between citizen and identity. ‘In the absence of inclusionary definitions of people, of modes of co-existence around commonly accessible identities – which secularism among other contemporary forms tries to facilitate – the logic of democracy can become that of ethnic cleansing.’ (Taylor, 1998: 47-48). What is required is the commitment to ‘shared values’ – when there is disagreements and controversial understandings about social goods and meanings of social goods, then justice demands that society must be faithful to disagreements, ‘providing institutional channels for their expression, adjudicative mechanisms, and alternative distributions.’ (Walzer, 1984: 313). Religious morality is useful for society and there is a basic agreement between religious morality and social morality. Hence, there should be toleration of religious pluralism in democracy. The state, which is unitary, by nature centralized, which unifies various religions and customs, corporate bodies, weights and measures, dialects, and local administration etc. But when democracy develops under multiculturalism or in multicultural society, then it is federal, by nature decentralized, which gives weightage to religious pluralism and cultural diversity. ‘Democracy surely does imply tolerance of difference,...’ (Phillips, 1991: 57). Equality is now increasingly understood to require social difference, difference of culture, minority representation in legislative bodies and special collective rights to protect themselves from the encroachment of majority rule. ‘Multiculturalism... is not simply a matter of accepting minorities; new comers too need to be able to open up and welcome change. This is a point worth making when present conflicts and policies are threatening to make Islam in a religion of ghetto. The current temper of Asian Muslims... is not to seek the common ground,... but to emphasize the difference...’ (Modood, 1993: 152). The need is to recognize the difference and let them to practice the different ways of life, to reconcile the principle of equality with the fact of social difference. According to Professor Smith (1963) regulations and reform of religious endowments are tantamount to promoting Hinduism. In fact, the state has no

business with religion. The only solution to majoritarian Hinduism is that the functions of the state in relation with the Hindu religious endowments be cut back to a minimum. The state interference is likely to violate religious liberty for one and lead to the promotion of another reform – this is not valid. Valid reforms of religion by the state are incidental in cases of public protection where religious practices tend to injure human beings morally or physically or violate human rights.

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