

STATE POLICY IN INDIA AND SECULARISM

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The rise of the secular, national state in Europe is the most notable achievement of the commercial bourgeoisie in the modern era. It first broke the combination of church and feudalism by the establishment of a national monarchy and national church and later on wrested power from both by the establishment of a democratic secular state in which it has been possible to pursue politics purely for political objectives. The evolution of the secular state represents "the progressive depolarization of religion; the secular state became the foremost political power."¹ This transformation also represents a significant revolution in values. The beauty and majesty of the secular world presupposes a certain "this worldliness" where man forms the main measure and centre of all interest and knowledge. It put greater value on property and contract than faith and the benediction of the priest, on reason and material progress than insight and spiritual perfection. This individualism and secularism gave birth to the concept of political rights and prepared the ground for the rise of the modern democratic state. England was the first country in Europe to witness this transformation.

The concept of secularism in a rather broad, humanitarian sense, of the state as the benefactor of all is not a novel one for India. The humanism of India's great rulers like Asoka and Kanishka extended full recognition and toleration to all peoples and creeds. The philosophical tradition of no other country is also so free from racial, religious or nationalist bias as that of India. It is however true that in the ancient or medieval periods India could not evolve a concept of the state as a temporal reality of pure power-politics. The identification of the state with dharma, implying the rule of righteousness and justice in the ancient period was in large measure a projection of spiritual transcendentalism in the realm of politics. In the medieval period the priestcraft exercised a strong influence on Indian polity, whether Hindu or Islamic and theology was blended with politics and law in a very subtle and intimate manner. In the opinion of Rudolf Rucker, in no other country besides Egypt and Tibet organized priestcraft attained to such power as in India. Here the system of "Caesaro-Papish" acquired great power and was cemented by the institution of caste, blessed with some sort of divine sanction.²

In India it was under the British government that there was consider-

1. Hans Kohn, *The Idea of Nationalism* (1958) 105.

2. Rudolf Rucker, *Nationalism and Culture* 49.

able progress towards the evolution of a secular polity. The ideological affiliations of the British ruling class in the nineteenth century and the pressure of circumstances contributed towards this consummation. It is not necessary in this context to endorse the altruistic and philanthropic theory about British rule advocated by British historians from James Mill down to Seeley and Bury, that the British legislator consciously strove in this direction. There is no philanthropy in imperialist politics. Enlightened self-interest, the basis of individualistic ethics emphasized by the utilitarian thinkers, Bentham and John Stuart Mill was the dominant note of British imperialism in India. England at the end of the eighteenth century, fortified with the philosophy of Bacon and Locke, and the scientific formulations of Newton was definitely the most progressive European nation. The secular outlook of its middle class rejected the crude and religious policies that marred the progress of European colonization under the Portuguese and the Spaniards in the earlier periods. The secular and democratic temper of the British nation contributed immensely to her success in India as an imperial power. The British government undoubtedly achieved conspicuous success both in the negative and positive aspects of secularism—the former upholding a certain type of *laissez-faire* in religious matters. It did not disturb the equipoise of traditional beliefs and customs and also forged a progressive political machine which the Englishmen could conveniently comprehend and handle. The Indian intellectual elite and the middle-class of the nineteenth century which was a creation of British rule was naturally and not without reasons drawn towards it. It admired the British administration as a distinct departure from medieval polity in which the state was more or less the private property of the ruler and where there was no scope for the rule of law. This is an outcome of an individualistic secular philosophy, enthroning the concept of rights over and above that of obedience and passive resignation to the fiat of the state. Raja Ram Mohan Roy, the first great Indian of the modern era, honestly believed that his country was grateful to England for her political education. He admired the British for the excellence of their judicial administration and administrative machine. He considered it fortunate that Providence had placed India under the protection of the British nation which secured them the same civil and religious privileges and rights which were enjoyed by every citizen in England.³ Bankim Chandra Chatterjee, the author of the national hymn, “Vande-Mataram” in his famous essay on “Independence and Dependence” confessed that British rule offered some invaluable compensations. He wrote that the distinction between an Englishman and Indian which existed in British India was “far less galling than the distinction which existed between the Brahmans and Sudras” in ancient India where there

3. W.T. de Barry *et al.* (eds.), *Sources of Indian Traditions* (1958) 585-86.

were different laws for them. The recognition of the principles of civil liberty and the introduction of European science and literature we considered as significant gains for the loss of political power.⁴ Indian intelligentsia nourished in the doctrines of British liberalism of Bentham and Mill and the historical school of Burke and Montesquieu was immensely excited by the secular professions of British government. The declaration in the Charter Act of 1833 which opened public services to all Indian subjects irrespective of religion, birth or colour made a strong appeal to them. Macaulay advocated the insertion of the clause in the Act with great passion in the parliamentary debate on the Bill and considered it "that wise, that benevolent, that noble clause." "To the last day of my life," he said, "I shall be proud of having been one of those who assisted in the framing of the Bill which contains that clause."⁵ The proclamation of Queen Victoria in 1858 which did much to pacify the bitterness engendered by the Mutiny was hailed by them as an eloquent expression of secular ideals. It expressed such sentiments—"We disclaim alike the right and the desire to impose our convictions on any of our subjects," "that all shall alike enjoy the equal and impartial protection of the law," that the British government shall "abstain from all interference with the religious beliefs or worship of any of our subjects," etc.⁶

The Western notions of progress and secularism were also the inspiration of the Indian political movement. The communal clashes and controversies that disfigured the Indian landscape in the later period did not dilute the political and secular outlook of Indian nationalism. Its faith in a secular polity was emphasized in a definite manner in the Constitution produced by the All-Parties Conference under the guidance of Pandit Motilal Nehru in 1928. It tried to assure the minorities by an elaborate declaration on fundamental rights, conceding full freedom of conscience and autonomy to religious and cultural groups.⁷ The Indian National Congress of Lahore in 1929 reiterated the pledge to the minorities that in an independent India questions would be solved on a strictly national basis. Indian nationalism never endorsed the plea for communal states advocated by the Muslim League. In 1940 when Liaquat Ali alleged that "the sole objective of the Congress under Mahatma Gandhi's fostering care has been the revival of Hinduism and the imposition of Hindu culture on all and sundry," the Mahatma gave a memorable reply :

4. *British Paramountcy and Indian Renaissance* (Bhartia Vidya Bhawan Publications, Vol. 9) 872-74.

5. Macaulay's Speech in the House of Commons on 10th July, 1833, printed in A.B. Keith (ed.), *1 Speeches and Documents on Indian Policy* (1922) 264-65.

6. Sir Courtenay Ilbert, *The Government of India* (1898) 572-73.

7. Report of All Parties Conference, Allahabad, 1928, pp. 101-03.

So far as my own objective is concerned, my life is an open book. I claim to represent all the cultures, for my religion, whatever it may be called, demands the fulfilment of all cultures. . . I regard all religions with the same respect.⁸

The Constitution of the Indian Republic proclaims India's commitment to secularism in a very forceful manner in its articles 25 to 28. It is a perfect embodiment of the concepts and ideals that India assimilated in the course of her political intercourse with Britain. In this context Sirdar D.K. Sen aptly remarks that "greater than the conquests of the British armies have been the conquests of the British concepts of freedom and democracy."⁹

Secularism implying the neutrality of the state in religious matters does not however rule out legislation for common national goal or discriminatory social legislation to meet the demands of social justice. A purely negative approach is now outmoded for a state that aspires to function as a welfare state and social democracy. The British government achieved conspicuous success in harmonizing the apparently contradictory facets of secularism, both non-interference and positive use of law for radical secular changes. While it avoided serious inroads in the sphere of traditional morality, it succeeded to a great extent in incorporating secular principles in an institutional framework and giving them permanence. It was able to project a general scheme of law, judicature and administrative organization and achieve the ideal of placing the country under a common political system. The codification of law, the evolution of a common code of civil and criminal procedure, of a common penal code, of common civil code in respect of many vital interests, which the jurists are more competent to examine was a significant achievement of the British government. The Indian Penal Code, 1860, and the role of habeas corpus is more or less a reproduction of the English criminal law with minor modifications. A large part of the substantive civil code could not be codified as the British government did not want to interfere violently with the Hindu and Muslim legal systems which claimed both religious and civil sanction. But in those spheres, as a general rule, such as education, social legislation, taxation, land-policy, etc., where the British government did not care to foster indigenous systems, it succeeded in imposing a common pattern on the country. This indirectly served the cause of national integration. During the era of independence the Indian state has been very liberal in the secular outlook. It has allowed all religions to function freely, to the extent of even tolerating various

8. "The Mahatma on the Two Nation Theory" (*The Hindustan Times*, April 14, 1940).

9. Sirdar D.K. Sen, 1 *Comparative Study of the Indian Constitution* (1960) Preface.

religious organizations indulging in political activities. While it legislated boldly for the reform of Hindu marriage in spite of the opposition of orthodox opinion, it has not contemplated any similar enactment for the Muslims or other religious groups for its deep concern for their susceptibilities. The patronage of the state is open to all irrespective of the distinctions of caste and creed and the spirit of legislation in the various states and the centre has been completely free from anti-secular bias. It is, however, too much to say that secularism can be achieved on the basis of state policy alone. As long as society continues to be bogged down to traditional values mere state legislation would not achieve a complete concord at between conventionalism and the rule of law, between impersonal loyalty for causes and the anti-secular urges of caste and sect.