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Gender, Religion and Democratic Politics in India

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Introduction

India's success in building and consolidating a vibrant democracy remains unequalled in the post-colonial world. It runs contrary to the widely held view that rich societies are more likely to be democratic and that heterogeneous societies with diverse population are prone to instability and civil war (Frankel 2000: 3). India has succeeded against considerable odds: low income, widespread poverty, and illiteracy (Kohli 2009: 3 - 4). Indeed, 'the formation of an Indian nation out of an extraordinarily disparate population riven by caste, class, gender, and other oppressions is one of the most outstanding achievements of our times' (Patnaik 2009). Apart from a period of 20 months between 1975 and 1977, when Prime Minister Indira Gandhi declared an Emergency and suspended civil rights and personal liberties, democracy has not only survived, but has thrived and been institutionalized. Constitutionalism, the rule of law, a free press, a vibrant civil society, and regularly held free and fair elections are indicators of an institutionalized democratic system. Today, India has a strong democracy and a robust civil society; the social base of the polity has widened considerably through the expansion of democracy. This has ensured that the political actors do not come only from the traditional upper caste social élite although they continue to have a disproportionate presence in public institutions and influence over policy-making (Jafflrelot and Kumar 2009).

India's democratic politics is marked by significant shifts that can be traced to the defining period from 1989 - 91 when the neo-liberal restructuring of the economy and the rapid rise of political organizations that espouse Hindutva (Hinduness), a self-defined ideology of Hindu supremacy that believes Hindustan (India) is a Hindu *rashtra* (nation), changed the contours both of its economy and politics. The Congress government in 1991 altered the development strategy which led to a major policy shift from state-regulated to a more market-centred economy. In recent years, growth has dramatically accelerated, the last five years having witnessed an economic growth of 8 per cent per annum. As India's wealth increases, the gap between rich and poor is also on the rise. In truth, economic and income inequalities have widened, and the numbers of poor, unhealthy, and illiterate are unacceptably high. This notwithstanding, the central and state governments are unwilling to roll back neo-liberal economic policies, which virtually all political parties support, many of which have been pushed through without much opposition or dissent. The Congress-led United Progressive Alliance (UPA) government elected to power in 2004 and re-elected in May 2009 has to some extent tried to correct these imbalances through several pro-poor measures such as the National Rural Employment Guarantee Act (NREGA)[1] which provides for hundred days on employment on public works on demand to one member of a rural household. There is much less consensus in the realm of secularism or the need to keep religion out of politics; indeed, there is often a refusal to accept the logic of diversity and its accommodation in a secular democracy.

In India, the relationship between religion and politics is highly contingent, and as such it defies any generalization. In recent decades, religion has had much greater impact upon politics than it did in the early years following Independence. India's main ruling party has been the Indian National Congress, a secular (nonreligious) political party, which was the dominant party for over four decades after Independence. But in

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[1] The UPA government introduced the NREGA in Parliament in 2005 to provide a minimum guarantee of employment to poor households. Described by the UPA as the largest programme for rural reconstruction, it is probably the biggest ever-public employment initiative anywhere in the world. Providing wage employment to the rural poor was the principal idea behind NREGA, it essentially addresses the issue of deprivation and the need for employment and livelihood to prevent endemic hunger that can lead to destitution.

1998, in the twelfth general election, a coalition led by the Bhartiya Janata Party (BJP), won a majority of seats in the Lok Sabha (The House of the People), and formed a government in New Delhi. In both the 1998 and 1999 elections the BJP emerged as the single largest party winning 182 out of 543 seats Lok Sabha seats. This marked a crucial turning point in modern Indian politics as, for the first time the BJP, India's main right-wing political party and the front party of a family of militant Hindu organizations (known as the Sangh Parivar) formed a government at the Centre ending decades of erstwhile political isolation. The most prominent organizations have been the Rashtriya Swayamsevak Sangh,[2] the Vishwa Hindu Parishad (VHP) and the Bajrang Dal, a religio-political organization. The BJP was founded on the ideology (set of beliefs) of Hindutva; it proceeded from a conception of India divided among majority and minority religions, equating India with a Hindu nation. Many of its party's leaders belong to the RSS or the VHP. Both groups support recognizing India as a Hindu nation. Most of the BJP's electoral support has come from India's northern, northwestern and western states.

Although the BJP set aside the most contentious aspects of its agenda such as the adoption of a uniform civil code (which is opposed by the minorities) to forge an electoral coalition, its growing influence, nevertheless, posed a threat to secular democracy and constitutional safeguards for minority rights. Hence, the electoral victory of the UPA in the 2004 and 2009 elections, defeating the BJP-led National Democratic Alliance (NDA), has been seen as a respite for secular politics. However, the defeat of the principal anti-secular party, the BJP, did not spell the end of the role of religion in politics and society. Rather, this phenomenon has had considerable impact on the functioning of the state, civil society, and women's and minority rights. Be it the communalization of the polity, or the anti-Muslim pogrom in Gujarat in 2002,[3] communalizing national security, educational policy, and gender issues, the BJP's legacy is, to say the least, disquieting.

Apart from six years of the BJP-led coalition government in Delhi, India has not been governed by a political party or a coalition of parties that make explicit appeals to religion. Nevertheless, religious and identity politics is an important force in India's public life. It assumed greater prominence during BJP rule but that party alone has not been responsible for the increasing role of politicised religion. Even secular parties have found the idea of scoring quick electoral gains by tampering with secular principles and institutions too tempting to resist. Political leaders are eager to curry favour with religious leaders in order to use them to marshal political support. Parties seeking to stake out a position as pro-Hindu, or simultaneously pro-Hindu and a protector of the minorities, has given a fillip to the emergence of anti-secular politics.

This analysis is not however about religion or religious leadership, it focuses on the politics of identity rather than organized religion. The emphasis on identity politics is necessary as it would be hard to construct the Indian story primarily around the growth of the RSS and BJP which have met with limited success, but identity politics including religion has had enormous impact. Identity politics when people of the same caste, tribe or religion mobilize around a candidate of the same background has long

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[2] The RSS (National Volunteers Organization) was founded in Nagpur in 1925 by Keshav Baliram Hedgewar. Also known as the Sangh, it is a Hindu revivalist organization associated with Hindu militant movements. It suffered a severe setback in 1948-9 because of the assassination of Mahatma Gandhi by one of its members Nathuram Godse. Jawaharlal Nehru banned the RSS in 1948. The RSS is a conservative and reactionary organization which represents a form of militant Hindu nationalism.

[3] More than 1500 Muslims were killed in waves of violence that swept through the state, over 150,000 were displaced and scores of women raped in what was one of the most brutal carnages in the history of independent India (Z. Hasan 2007).

been a part of India's political landscape. In the contemporary context, it refers to movements, campaigns, party strategies and group assertions that mobilize electoral support around caste and religious identities to gain access to political power and public goods, services and resources of the state. Thus identity politics attempts to attain empowerment and recognition of social groups by asserting the very same markers that distinguish and differentiate them from others and utilize these markers as an assertion of self-identity based on difference rather than equality. In India, the state is seen as an active contributor to identity politics through the creation and maintenance of state structures which define and then recognize people in terms of certain identities. These assertions have impacted the women's question so much so that the coherence of the women's category itself has come to be seriously questioned and debated.

More specifically, this paper seeks to examine the implications of the interface between politics and religion for women's rights and minority women's rights, as well as for India's democracy and the Indian model of secularism. It will seek to show how women's and minority rights are used instrumentally by the politics of religion which has sidelined the women's rights agenda.

This analysis aims to address a range of issues in relation to women, politics, and religion in contemporary India. First, what are the social and political repercussions of religious and communal politics assuming a more prominent public and political role?[4] More specifically, what roles have women played in Hindutva politics and its campaigns, and what role has it played in relation to the rights of women?[5] What are the gender strategies of the Hindu right and what are the effects of communal mobilization on women's rights issue? Has its increased support among women and advanced women's agendas or does it aim to further an agenda of discrimination by focusing on religion as the principal basis of identity while erasing the cross-cutting cleavages that are the basis of India's pluralistic and democratic society?

A second issue concerns the effects of the politicization of religion on minority women's rights and the strategies deployed by minority groups to preserve their distinctive identity in response to threats to it, on the one hand, and to enhance women's rights, on the other.

The third set of questions relate to women's groups, and how different strands of women's movements have positioned themselves vis-à-vis other political actors in these contexts in defense of women's rights? Is there any learning and cross-fertilization between secular women's groups and those that identify with particular religious worldviews?

The analysis comprises five principal sections. The first introduces the key issues of diversity, secularism, and women's legal status; the second briefly outlines the status of women in the context of significant changes in government policy towards women since the early 1980s; the third section looks at the ways in which religion and

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[4] Communal politics in India denotes attempts to promote primarily religious stereotypes between groups of people identified as different religious communities and to stimulate conflict and violence between those groups. This phenomenon is represented by the word sectarianism outside South Asia. In India, communalism is seen as existing primarily between Hindus, Muslims, Sikhs and Christians. Political parties are generally considered to play an important role in stimulating, supporting and/or suppressing communalism.

[5] Hindu right refers to organizations and parties that subscribe to the ideology of Hindutva or Hindu primacy, are socially conservative and favour a strong quasi authoritarian state. It would include organizations such as the RSS, VHP, Bajrang Dal, BJP and Shiv Sena, an ally of the BJP in the western state of Maharashtra. Sena's ideology is based on the idea of Hinduness and the sons-of-the-soil that is 'Maharashtra for Maharashtrians'.

politics have been interlinked in India and the role of major political parties in this process; the fourth focuses on the Hindu women's political engagement and activism; and finally, the fifth on the approach and strategies of influential political parties, women's movements, and Muslim women's groups towards legal reform and the question of a uniform civil code.

1. The Indian Model of Secularism

India is home to about 1.13 billion people comprising approximately one-sixth of the world's population. It is perhaps the largest and most plural society in the world where people speak an array of languages and use a wide range of scripts. The country is host to all conceivable religious faiths: Hindus, Muslims, Christians, Sikhs, Buddhists, Jains, Jews, and Zoroastrians, four of which were born here, while the others were brought in by the successive political and cultural invasions, and assimilated by its people. Indian Muslims constitute the world's third largest Muslim population, accounting for 13.4 per cent of the total population. The other minorities add further richness to India's diversity, but their comparatively small numbers accentuate the overwhelming proportion of Hindus, constituting approximately 81 per cent of the population. The Hindus, although they share a common religious tradition, are themselves divided into a myriad of sects and are socially segmented by scores of castes and sub-castes, hierarchically ranked according to tradition and regionally organized.

The foundational principles of the nation-state were enshrined in the constitution adopted in 1950. It guaranteed certain fundamental rights, including the right to private property, freedom of religion, assembly, movement, and association. The Indian model of secularism has to be viewed in the post-colonial context. It was a specific response to India's extraordinary pluralism and the need to accommodate minorities in the aftermath of Partition in 1947.[6] Partition necessitated secularism, and at the same time it was a contested idea when the constitution was framed, sometimes provoking acrimonious debate in the discussions leading up to the Preamble (Needham and Sunder Rajan: 2007: 15). The term secularism did not enter the constitution until 1976. However, this notwithstanding and serious differences of interpretation, secularism has been a central feature of the Indian project of modernity, democracy, and development.

The Indian constitution does not embody a strict separation of religion and state: religion has not been disestablished. Departing from the disestablishment model, the state has chosen to interpret secularism as the responsibility to ensure the protection and equality of all religions and provide for regulation and reform, rather than the strict separation or religion and state (Bhargava 2007: 28- 28). Yet, there is no mistaking the overall secular design articulated in three salient principles. The first is the principle of religious freedom, which covers not just the right to religious thought, but every aspect of faith, including belief and rituals, and also freedom from discrimination on grounds of religion, race, caste, place of birth, or gender (Dhavan 1987). The second principle of the secular state is articulated in Articles 17 and 25(2), 30(1 and 2) which permit the state to intervene in religious affairs, regulating or restricting any economic, financial, political, or other secular activity which may be associated with religious practice.

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[6] The Partition of British India in 1947, which created the two independent states of India and Pakistan, was followed by one of the biggest migrations in history. An estimated 12 to 15 million people were forcibly transferred between the two countries. The religious fury and violence that it unleashed caused the deaths of some 2 million Hindus, Muslims and Sikhs. At least 75,000 women were raped. The trauma incurred in the process has been profound and has had a lasting impact on the politics and relations between the two states.

The third feature was the emphasis on social welfare and reform. In pursuit of this agenda, the state abolished untouchability and threw open Hindu temples to all sections of the community (Dhavan and Nariman 2000). Additionally, the state is involved in administering religious trusts, declaring holidays for religious festivals, preserving the system of personal laws for different communities, undertaking the reform of religious law, and besides all this, secular courts interpret religious laws.

One issue most relevant to secularism and the religion-politics relationship is that of minority rights. The question of whether minorities should be accorded special treatment by the state remains a matter of bitter conflict and controversy in India, especially in recent years when the Hindu right, by persistently attacking minority rights, has questioned the link between secularism and minority rights (Bhargava 2002). It has been particularly severe in its attack '[w]henever secularism has meant providing for substantive equality for religious minorities, it has drawn the ire of Hindutva ideologues' (Needham and Sunder Rajan 2007: 21).

2. Constitution, Women's Rights and Personal Status

A related issue pertains to women's rights. Indeed, one of the major rationales of secularism was its promise of gender equality and support to women. Equality before the law is a principle that seeks to promote gender inclusiveness and Articles 14 and 15 explicitly state this. Thus Article 14 holds that the state shall not deny to any person equality before the law or the equal protection of the law. Article 15 prohibits state discrimination 'on grounds only of religion, race, caste, sex, place of birth, or any of them. Other rights that are extremely relevant to gender equality include Article 13 (invalidating all laws inconsistent with the Fundamental Rights); Article 16 (equality) of opportunity in public employment); Article 19 (protection of freedom of speech and expression, freedom of association, freedom of travel, freedom of residence, and freedom to form labour unions); Article 21 (stating that no citizen shall be deprived of life or liberty except according to the procedure established by law); Article 23 (prohibition of traffic in human beings and forced labour); and Article 25 (freedom of conscience and religion).

One of the greatest challenges relating to gender equality pertained to the domain of personal laws.[7] In colonial times, India as a whole was subject to a common criminal code drafted in the 1880s. There was however no attempt to replace personal laws with a common civil code. After Independence, reform of personal laws became necessary to meet the needs of secularism and modernization, and in order that personal laws were fair, just, and non-discriminatory. India's post-colonial modernist leadership

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[7] The term personal laws refers to family law that governs the domestic relations of Muslims in India, it is not the same as Muslim personal laws followed in other Muslim countries or the Muslim majority states of South Asia. Personal laws operate in matters relating to inheritance, marriage, divorce, maintenance, and adoption, which are regarded as personal issues because they relate to the family or personal sphere. Regarding the content of Muslim personal laws, four aspects should be noted. The first is concerned with inheritance: Muslim personal law requires that women share in property of the parents roughly half the amount granted to male descendants. The other three aspects relate to marriage, divorce and maintenance. Of these much debate and controversy exists on polygamy and the positions on *Talaq* (divorce) are well known too: if convinced that the marriage has broken down the man can quietly pronounce *Talaq*, which becomes effective after the period of *iddat* (roughly three months). If the man does not retract during this period the marriage is dissolved. The man can revive the marriage provided the woman consents. This renewal is permitted twice during the lifetime of the couple, however. With the third pronouncement of the *Talaq*, the marriage is irrevocably dissolved. If divorced, the woman gets alimony but only till she is re-eligible for marriage, which, once again is roughly three months.

demonstrated a willingness to intervene in matters of personal law which are widely seen as the domain of religious and traditional authorities, and where religious and customary precepts (the latter often giving women even fewer rights than the former) continue to hold sway. However, only Hindu laws were singled out for reform (Chatterjee 1998).

Hindus, like Muslims, have considered personal law based on the 'dharmashastra', a part of their religious tradition.[8] Nonetheless, the Congress government under the leadership of Jawaharlal Nehru went ahead within a year of Independence to enact a number of progressive laws in relation to marriage and divorce (1955), adoption and maintenance (1956), minority and guardianship (1956), succession and inheritance (1956), etc. These broke away from the shastric tradition and represented the initial but important steps in the direction of, first, the liberalization and secularization of Hindu personal law and, second, the eventual formulation of a uniform civil code (Parasher 1992).

Nehru hailed this reform as revolutionary and 'the most outstanding achievement of his time' (Som 1994). These changes went quite far in the direction of gender equity but not complete equality. In later years, women's organizations were to argue that it did not go far enough, not in practice giving equal rights to women, and most of these laws are flouted with impunity. (AIDWA: *Not A Uniform Civil Code But Equal Rights, Equal Laws*: 1999).[9] For example, the Hindu Marriage Act 1955 permits the marriage of a girl at eighteen, but not of a boy until the age of twenty-one. Similarly, the Hindu Succession Act provides for different schemes of intestate succession for male and female intestates.

More contentious than the shortfalls of Hindu law reform was the state's reluctance to adopt a similar approach towards reform of the religious personal laws of minority communities, i.e. Muslims, Christians, Sikhs, and Parsis to bring them in line with modern notions of gender justice. The critics have directed their energies on what they perceive as unequal exercise of power of the state, providing for reform of the institutions and practices of Hinduism, while not deploying this power in relation to Indian Islam. This created an aberration in the very notion of equal citizenship: if it was accepted that the state could intervene to provide equal rights to members of one community, then what ground was there for not doing the same for others?

Although Nehru considered legal reform of all personal laws necessary and a uniform civil code for the country as whole essential and a vital element for national development, he was apprehensive that any imposition on minorities, without their consent, would be imprudent.[10] Hence, the policy of merging personal laws of different re-