Religion and the Secular: Categories for Religious Conflict and Religious Change in Independent India

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CONSTITUTIONAL PROVISIONS for "religion" in modern India and the subsequent determination of the realm of "religion" by the courts have been the study of several books by political scientists. Legal scholars have also analyzed this material to determine the legal extent of religious freedom. It is my intent to submit these documents to religio-historical analysis. Religio-historical analysis operates with the functional definition that religion is what concerns man ultimately. Religion is what is more important to him than anything else in the universe. While religio-historical analysis can be used on materials which have traditionally been considered religious, it can also be useful in analyzing the religious dimensions of materials not commonly considered religious—in this case legal documents.

In these terms, The Constitution of India not only makes provision for "religion" in the modern Indian State, but is itself a religious document. By providing a value structure for the modern Indian State, the Constitution not only orders priorities, but also embodies religious conflict and religious change.


3 For a more extended treatment of this approach see the author's Category Formation and the History of Religions (The Hague: Mouton & Co., 1971).

4 For the purpose of this paper, "religion" will refer to the realm for which the Constitution provides freedom, while religion will refer to the functional definition of religion as ultimate concern.
The Constitution: The Conflict of Religions

When the study of religion is defined as the study of what people have considered of ultimate importance and the structure of reality consequent to such determinations, religion can take the form of a non-transcendent concern. The Constitutional religious model is non-transcendent. The Constitution neither affirms nor denies life beyond the present existence – it is simply not a relevant consideration. The preamble to the Constitution suggests the religious orientation of the document.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

By limiting itself to concerns relating to this life, the Constitution stands in marked contrast with traditional religious models such as the one contained in the Manuṣmṛti. For example, both the Constitution and Manuṣmṛti place considerable emphasis on justice. But in Manuṣmṛti the doctrines of karma and rebirth require that justice be defined in terms of considerations which take place before and after one’s present existence. The Constitution defines justice in such a way that it must be actualized in the present existence. The doctrines of karma and rebirth are not denied – they are simply ignored.

Closely related to this is the fact that for the Constitutional religious model the content of justice is based on equality. All people are to be considered equal before the law and are to be afforded equal opportunity for employment, education and access to public facilities. Article 17 abolishes untouchability. If Article 16(4) provides for the possible reservation of positions for persons in backward classes, it is not because they are deemed superior, but because reverse discrimination seemed necessary to balance previously inherited handicaps which are themselves inconsistent with the theory of human equality.

By way of contrast, Manuṣmṛti rejects the inherent equality of all persons. Not limiting itself to this life, it interprets present inequalities as the result of past deeds. Manuṣmṛti begins with a chapter on creation in which the class system is seen as a part of the created order. Brahmans, Kṣatriyas, and Vaiṣyas are to offer sacrifices and study the Vedas, and perform other functions peculiar to their respective classes. Śudras are to serve the other classes. Since they are not dvijas, they do not have access to the Vedas nor do they perform sacrifices. Manu is declared to be omniscient and of equal authority with the Vedas.

Because people are different by birth, justice must be dispensed so as to

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6 Ibid., II, 7.