INTRODUCTION

The great majority of the Indian population - more than 82 per cent of the country’s population of over 850 million - are of the Hindu faith. Islam is the second largest religion, and its followers comprise some 11½ % of the population. The Muslim minority in India is larger than the population of most Islamic countries. Islam has been deeply rooted in India for many centuries and has made a substantial contribution to the political and cultural history of the country. This article briefly outlines the position of the Muslims from a historical and sociological point of view. It then goes on to consider the main Hindu fundamentalist party - the BJP. Hitherto the BJP has not succeeded in obtaining a majority in the central Parliament, but two central Governments have already been dependent on its support. Its influence seems to be growing.

The Indian Constitution proclaims a secular State in which equality and non-discrimination are guaranteed for each person, irrespective of his or her religion. The Constitution also contains a number of specific guarantees of freedom of conscience. This constitutional system is briefly described in this article.

The central Government in New Delhi has repeatedly declared that it champions equal rights for the Muslims and defends the secular character of the State with the support of a parliamentary majority. Nonetheless, the Muslims consider that they are discriminated against as a minority, and there is regular friction and violence between the Hindu and Muslim communities. This article considers various problems of a general nature:
first of all, the Kashmir problem (Kashmir being the only State of the Indian Union to have a Muslim majority), second the continued existence of a separate Muslim personal and family law contrary to the provisions of the Constitution and, third, the destruction of the centuries’ old mosque at Ayodhya by fundamentalist Hindus and the measures subsequently taken by the central Government and the cases decided by the Supreme Court.

The problem of the secular State and the place of the Muslims in it plays an important role in the various tensions that are described in this article. The principle of the religious neutrality of the State is by no means undisputed: it is challenged by both the Muslims and the Hindu fundamentalists. Nonetheless, the principle seems essential to the stability and cohesion of the Indian system. It will become evident in this article that the Supreme Court envisages a central role for itself in maintaining the secular State.

1. THE MUSLIMS IN INDIA

Islam has been long established in India. Its origin lies in the various invasions of Muslims which took place in Northern India from the eleventh century onwards. In the sixteenth century the Mughal Empire was founded by Muslims originating from Uzbekistan. In due course it extended over all of northern and central India. The Taj Mahal in Agra, the Red Fort and the Jama Masjid mosque in Delhi together with numerous other important monuments in India were built by Mughal rulers. Only in the south a number of small Hindu kingdoms did survive.

After Aurangzeb (1658-1707), the Mughal Empire fell into decay and disintegrated into a number of independent states. The last Mughal emperor was deposed after the Great Mutiny of 1857 and the vast majority of the subcontinent was placed under direct British rule.

The British rulers strengthened the Muslim’s feeling of community in relation to the Hindus. Since the end of the previous century, the British had pursued a policy of divide and rule, converting their originally anti-Islamic policy into support for Islamic organisations as a counterweight to the Indian National Congress\(^1\), which was dominated by Hindus. The

\(^1\) The Indian National Congress, which was founded in 1885, started as a debating club which was convinced of the blessings of the colonial regime but was in favour of a greater share in government for the Indian elite. Gradually the Congress evolved into a popular movement advocating self-rule and, ultimately, independence.