

CONTENTIONS ON CIVIL SOCIETY: THE INDIAN DEBATE

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DECLARATION

I hereby declare that the dissertation entitled **Contentions on Civil Society : The Indian Debate** submitted by me, **Dipti Ranjan Behera**, Centre for Political Studies, Jawaharlal Nehru University, New Delhi, for the award of the degree of **MASTER OF PHILOSOPHY**, is my original work and has not been submitted in part or in full for any other degree or diploma or in any other University.

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To

My Grand Father and Grand Mother

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Background to the study

Background to the study

One of the important reasons for civil society being in vogue today is its association with democracy. The responsibility of consolidating and rejuvenating democracy and social welfare is rested on it. The normative view of civil society is significant for theorists of democracy. They see civil society as embedding virtues that sustain democratic interactions, equality and co-operation. Civil society provides the indispensable spirit that enables societies to be largely self-governing within a limited state. The associations of civil society are democratically structured to internalize democratic values. It is based upon the assumption that democracy still proves to be the most effective channel of accommodating diverse needs of the people though there are different claims and ways of expressing these claims.

In the liberal tradition, civil society referred to the space where the democratic potential of independent citizen action is realized in the face of an unresponsive and autocratic state and in opposition to particularistic pressures exerted by groups pursuing self-interested and anti-democratic agendas. The pathology of liberal model of democracy is that while it encourages groups to proliferate, it is incapable of handling the different, diverse and sometimes irreconcilable claims.

In recent years, a large number of works have been undertaken on civil society in spite of the contestations in which the concept is caught in. This dissertation looks into

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the various issues and concerns of civil society discourse in India with particular reference to political society, secularism and citizenship. I took up this enterprise to highlight the contentions within the discourse itself. Innumerable case studies with a growing body of theoretical analysis afford resources to wade through the contentions on the concept itself. However, narrowing down the zone of a set of contentions may beget new ones. Neera Chandhoke says that when there is a consensus on a particular concept, it becomes a problematic. This particular assertion proves correct in relation to the concept of civil society as well.

Public life in India has thrown up modes of interactions which cannot be encapsulated within the conceptual confines of civil society. Therefore certain scholars have found the need to propose concepts in the neighbourhood of civil society. Political Society is one of them. Both civil society and political society have traveled different paths in India and they have different trajectories. Civil society is the autonomous and independent sphere, distinct from the state, which expresses itself through self-generating and voluntary organizations and social movements. Political society comprises parties and other contestants for power in political institutions. Civil society may or may not attempt to influence power-holders. It is characterized by its capacity for deliberation, and for collective action within the limits set by state through rule of law. Civil society evokes the images of freedom to speak and associate without fear. It conjures up the images of a public life in which the words and actions of ordinary citizens will be duly acknowledged by the state.

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Liberalism rested on the assumption that individual liberty will nourish and translate into diversity of every kind. It recognised individual differences, acknowledged and negotiated through various groups in civil society. While civil society is efficient enough to deal with these differences, yet it does not have a principle by which cultural differences can be represented in the public arena. Even liberals are unsympathetic to the idea that the public arena should reflect diverse cultural values and ways of life.

Liberal democracy has traditionally maintained that social pluralism and cultural diversity should find its expression in civil society while equal citizenship and liberal neutrality should prevail in the public sphere. But recently, the notion of a neutral, procedural state under liberal democracy has been seriously questioned. The belief that the public sphere could be guided by procedures which are completely blind and neutral to identities and attachments is seriously questioned.

Scholars in India have resuscitated the idea of civil society in the context of the functioning of liberal democratic institutions and the social and cultural context constitutive of their backdrop. These concerns have crystallized around the concept of civil society.

The chapter titled 'civil society and secularism' is designed to examine how the debate on secularism involves civil society and how civil society is implicated in the conception of secularism in India. The objective of this chapter is to interrogate the secularist discourse in India. The deep conflicts arising from majoritarian Hindu

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Nationalism, Muslim fundamentalism as well as Sikh militancy in the recent past and the long-cherished yet horrifying memory of partition of India and the widespread disenchantment with established liberal democracies in other countries has fuelled a renewed debate on secularism in India in the recent past. The stupendous task of fostering some minimal unity and commitment to democracy among diverse and deeply divided groups has made this task as of utmost importance. Scholars have felt that the deficit of this aspect of democracy can be made good by promoting citizenship. Theorists have increasingly emphasized on a joint venture of civil society and associational democracy to ensure democratic citizenship. They regard civil society as the foundation of democratic citizenship and seek to establish or strengthen democratic political culture through voluntary institutions. Those liberals who have expressed doubts about the capacity of market transactions to encourage democratic virtues of civility, self-restraint and mutual trust have looked to the formative role of voluntary associations.

Liberals have stressed the need to strengthen the autonomous institutions of civil society and relate freedom of the individual with strong associations in civil society. The contentions on civil society are many and varied in India. Indian state grants religious freedom to various groups and communities and also gives a space for their proliferation and assertion. But given the possibility of the clash of rights of various groups, it shows its incapacity to accommodate them. The idea of civil society allows for the assertion of these groups with the assumption that it has to be fore-grounded upon rights.

It is very difficult to deal with differences through the idea of citizenship. Universal citizenship is valued because it is conferred on everyone and everyone is considered to be a citizen. It stands for the principle of inclusion and political participation for all. The inclusionary principle of citizenship is valued because it has come through a prolonged historical struggle against exclusion. Universal citizenship is defined as a package of legal, political, institutional, economic and other analogous relationship that binds society and individual to the state and which governs political relationships within society. It is through rules of citizenship that civil society finds expression.

Traditionally civil society has been conceptualized as a necessary condition for democracy. The close link between civil society and citizenship can be established as one of the conditions of democracy, because the domain of civil society is inscribed with a substantive measure of universal equality and respect for individual rights. In this realm there are procedures, mechanisms, provisions that make power transparent and predictable through civil society. This is vital, for without the stabilizing element of citizenship the exercise of power becomes arbitrary and generates insecurity; this insecurity can react on community identities, thereby threatening them. This is found when the state is too weak to protect civil society. The idea of universal citizenship performs the most important function of civic integration. By civic integration, it is meant that members of a political community work together to understand each other, respect each other's legitimate claims in civil society, seek agreement on issues and make sacrifices for one another.

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Differentiated citizenship by acknowledging differences accommodates the left-outs of universal citizenship. Citizenship conceived in universalistic terms, tends to transcend social differences, status and inequalities in power in constructing the identity of the individual in the public realm. It defines the applicability of rules and laws to all in a uniform manner, which tends to cast aside individual and group differences sustaining unequal claims. The public realm of citizenship with its call for inclusion and participation of all in the social and political institutions sometimes places certain social groups at a certain disadvantage. Common citizenship may not be sufficient for meaningful social and political equality. The experience with the functioning of Indian democracy has in fact widened the differences between different groups in social and political participation and meaningful equality.

Chapter-One

The Discourse on Civil Society

Chapter-1

The Discourse on Civil Society

The literature on civil society is vast and wide-ranging. This vastness of the literature itself makes any central engagement with it a daunting task. This work does not engage with the problems central to this literature, neither does it attempt to the construct an alternative map of civil society nor a prelude to it; rather it strives to identify the anomalies within the discourse with specific reference to India and is an invitation for further debate. It also asserts that it is not possible to fashion a discourse on civil society without taking into account other central notions of political philosophy. Further the other social spheres are intimately caught with it. The discourse on civil society in India can not be understood without relating to concerns of secularism, citizenship and political society.

Civil Society: Unravelling Conceptual Understanding

Civil Society has appealed to many in the modern era. The penchant for civil society has displayed much earlier but it was largely moribund during the earlier days when models of state-led modernization dominated both liberal and Marxist conceptions of social change and development. But in recent years, the discourse of civil society has been expanded to include a wide-ranging issue in its ambit, but the problems crop up when its suppositions question the larger discourse itself. Civil society is not a thing, but a set of conditions within which individuals interact collectively with the state. In this process of interaction, freedom is advanced through

participation in common projects in a collective manner to realise themselves. It is an important consideration while setting up structures for the realisation and enhancement of fraternity as paramount. Niraja Gopal Jayal says, through the institutions of civil society, a 'new self-regulating field of the social' is created in which right-bearing citizens do as they ought. Thus, Civil Society is a domain, which is identified as a realm of choice, personal freedom and individual responsibility. It is a public sphere, where private individuals realise their freedom while leaving the same scope for others. It allows individuals to shape their destiny by minimising public authority and maximizing private initiative.

There are two dominant conceptions of civil society today. In the first, more popular, view, civil society is defined in opposition to the state. It is identified with voluntary associations and community bodies with which individuals themselves associate with. The non governmental, non party associations of civil society are seen as forms of direct participation which can curtail the increasing power and authoritarianism of the state. Secondly, civil society is associated with a set of institutions that mediate between the individual and the state. Civil society in this reckoning is seen as a modern phenomenon that emerges only when the principle of formal equality becomes the operative norm in society. This work analyses these two views on civil society focussing on the recent debates and draws their implications.

Civil Society: A Conceptual Paradigm

Disenchantment, disgruntlement or disillusionment with the state is a major reason for revival of interest in civil society. As the bureaucratic machinery of state

has colonised the social life or social setting of people, the role of civil society is increasingly seen as restoration of communication and communitarian structures among its members.

Civil society is conceptualised as a space where people can pursue self-defined ends in the associational area of common concerns, and it is defined as a sphere which nurtures and sustains its members rather than control them and their relationships. It is a sphere outside the authoritative format of the state. "Civil society is understood to include those aspects of social life which are relatively untouched by the state; it retains a unique and uncompromised authenticity. The civil society is thus seen to be untainted by considerations of power and profit, which only come with modern times. Consequently civil society is a cache of tolerance and good neighbourly virtues, and also a great harmoniser and blender of contradictions".¹ But it does not mean any association untouched by the state is civil society as Gupta tends to suggest in the above quotation, because the reason of civil society is not exactly the reason of the state since both form autonomous realm within a society. Civil society is basically the domain, which is identified as a realm of choice, personal freedom, associationalism, pluralism, solidarity, civil rights, rule of law and individual responsibility. It is a public sphere where private individuals realise their freedom by leaving the same scope for other members' rights without any infringement. It allows individuals to shape their destiny with a desire to minimise the scope of public authority and maximise the private sphere. Civil society, therefore can be considered as a semi-autonomous entity as against the state. It is also seen as a residual category,

¹ Gupta, Dipankar, *Rivalry and Brotherhood*, Oxford University Press, New Delhi, 1997, p.124.

which consists of all that is left out by the state with regard to our public life, and it is also viewed as an arena of democratisation.

Civil society is a realm of organised social life that is open, voluntary, self generating, at least partially self supporting, autonomous from the state, and is bound by a legal order or set of shared rules. It is distinct from “society” in that it involves citizens acting collectively in a public sphere to express their interests, passions, preferences. It is the site of exchange of information to achieve collective goals, to make demands on the state, to improve the structure and functioning of the state and to hold state accountable.

Civil society is an intermediary phenomenon between the private sphere and the state. Under market oriented relations, actors in civil society recognise the principles of state authority and the rule of law and need the protection of an institutionalised legal order to prosper and to be secure. Thus civil society not only restricts state power but legitimates state authority when that authority is based on rule of law. Thus civil society is conceptualised as a space where people associate in many ways that are distinct from the way they associate in the economy or in the political sphere.

At the normative level, civil society can be considered to be the public domain. An issue becomes public when it becomes the object of a generalized discourse about what it should be. Thus, when class relations, gender oppression, racial and ethnic

issues are interrogated and criticized and brought to the centerstream of debate marked by publicity and the formation and dissemination of opinion we can speak of the prevalence of civil society.

Civil society provides a space for the articulation, the dissemination and the construction of a public opinion, a space where different positions present themselves and are combated. It is a theatre or mediation level where the dialectics between the private and the public are negotiated. As a terrain of political discourse it marks off the nature, limits and the ends of political power, vis-à-vis state which both codifies and moulds this power. Neera Chandhoke observes that the relation between the state and civil society is both complementary and conflictual and at the same time a relation of engagement and disengagement. Thus, the relation between state and civil society begets tensions and conflicts.

The boundary of society, civil society and the state are blurred since there is a constant overlapping between these entities. The specificity of civil society lies in the claim that politics can be conceptualised as a set of articulatory practices which mediate between the experimental and the expressive. These practices are plural not only because experiences are plural but because reflections on an experience and positions taken on the same are plural.

Civil society as the domain of politics is a plural domain. It is further a domain where positions are contested and politics attempt to hegemonise society through all

the means at its command, including media, resources and publicity. Politics as organised and articulated activity brings to the fore political groupings and other associations. Through their multiple and contested political positions, through articulation of opinion and through activity a political discourse about the authority and responsibility of the state and the limits of the state is constructed. The ground rules of a political community can be charted out through discussion and debate.

Civil society is the terrain for the construction of a political discourse; it is here that both initiatives and responses to state action are expressed. The state is the political organization of society and relates to society through civil society. The state is the codified power of the social formation. It gathers up, condenses and crystallizes power in society. The need for civil society is to make the state conscious of its distinct power. Though the state is a part of society, the need for society to self consciously organize itself against the state through civil society is imperative, if power has to be in its place.

At the prescriptive level, civil society is the public space. Spaces are however historically constructed and inscribed with previous struggles and power plays. It is the domain of politics but it must be recognised that the processes which shape it are equally political. It is therefore necessary to consider how this space has been historically constructed, maintained and transformed. Civil society creates politics but there are certain kinds of politics which may not find space there.

Civil Society as the Intermediate Space

Civil society emerges as the intermediate space between the public and the private pursuits and concerns, and between the public and the state though the boundaries are blurred and there is a constant movement between the domains. Thus it is the link between the individual and the state and forms a necessary buffer. Civil society as the public arena relates to society since it is the zone where issues in society gain political force, and it relates to the state since it seeks to lay down the agendas for public life. But it should be clear here that civil society is distinct from society in the sense that it involves citizens acting collectively in a public sphere to express their interests, passions and ideas, to exchange information, to achieve collective goals, to make demands on the state and to improve the structure and functioning of the state and to hold state officials accountable.

Civil society is also an arena where the state relates to society and responds to public discourse and attempts to mould public opinion seeking legitimacy through both statist and non-statist institutions and practices. In this sense, civil society has been considered as an intermediate space as it is in and through civil society that state attempts to influence society and stamp it with its own notions and domination.

As an intermediate space, civil society is a contested space where social practices beget discord as well as support one another. It is unstructured and plural following the active moment where we can see the balance of social and class forces playing themselves out affecting both private and public life.

The Significance of State in the Civil Society Debate

The state continues to be important not only because it is the repository of final power but it is equipped for certain functions exclusive to the ensemble of institutions constituting the state and in many respects, it is the vehicle of personal and class advancement, but above all, it is a domain which formulates codes and canons and invests them with sanctity. There can be no theory of the state without a theory of civil society; equally civil society can not be conceptualised without reference to the state as the codified power of that space. The state is not only an institution; it is the point at which the contradictions of civil society are condensed and authoritatively find expression.

Civil society as a terrain of political practices is capable of giving us a theoretical and political vantage point in the study of society because it can grasp the systemic nature of society and the point of view of collective actors. The state is a codification of power relations as constructed and contested in civil society and yet standing at the edge of the civil society because it acquires the capacity through the act of codification to shape lives of people and collectivities in infinite ways.

Civil Society and Democracy

Civil society as associational life can not be identified with democracy per se. Democracy requires, as a precondition, a space where various groups can express their ideas about how society and polity should be organised, where they can articulate

both the content as well as the boundaries of what is desirable in good society. it requires that individuals and groups should possess the right to communicate under conditions of relative freedom and their notion of the desired and the good society. Civil society is a pre-condition for democracy in as much as it constitutes both a site for democracy and a cluster of values and institutions that are intrinsic to democracy.²

The question is which comes first, whether democracy or civil society? The absence of the site of democracy is considered often as the absence of democracy. Here absence of the domain of civil society would imply that people do not possess the freedom that is necessary for democratic interactions. For that reason, only in the totalitarian regimes; the idea of civil society would be fruitful, though not denying the fact of existence of civil society in democratic regimes. In democratic regimes, the demand and institutionalisation of people's right will be achieved in the shape of the rule of law, rights and justifiability of rights. Within democracy itself, civil society affords the site as well as the values to fight with the inequities within the sphere of civil society itself.

Civil Society and Citizenship

Civil society consists of the public sphere of associations and organisations engaged in debate and discussion, wherein the debate over citizenship takes place. In civil society it is much easier for any group or person to make citizenship claims. Thus civil society provides many of the independent variables that explain citizenship. Civil

² Chandhoke, Neera, The 'Civil' and the 'Political' in Civil Society, *Democratisation*, Vol.8, No 2. Summer 2001, p.20.

society and social organisations are explained through a theory of citizenship as the citizenship theory provides a means to understand social solidarity. Sometimes it is argued that “Civil society is not the state sphere, so it cannot be the home of citizenship rights. Although the state may act as an advocate for some citizenship claims (e.g. the advance of disability claims), most claims for and defences of citizenship are made in civil society through the motivating interests of class and status – based groups”.³ Civil society space can carry a great variety of associations, whose membership is open and the members of these associations are able to pursue their diverse purposes freely and it reaching out to both universal and differentiated citizenship. The space of civil society has to be free from coercive pressures. The members of civil society have to relate to one another open-endedly without exclusion on the grounds of religion, gender so on and so forth. The concept of differentiated citizenship sees individuals both the members of the political community or the state as well as members of a cultural community and it envisages the rights of persons in both these capacities. The framework of differentiated citizenship is invoked to argue that different categories of people may receive different rights for the sake of ensuring fair and just treatment.

Citizenship concerns the relationship of the state and the citizen most specifically concerning rights and obligations of the individual. Citizenship rights and obligations exist at the individual and group level, or societal level. At the societal level, they refer to the development of citizenship rights and obligations in countries.

³ Janoski, Thomas, *Citizenship and Civil Society*, Cambridge University Press, London, 1998, p.17

At the macro-level, the focus is basically on the existence, breadth, and extent of universalistic rights and obligations in a polity at a specified level of equality.

At the group level, they concern the rights and obligations of groups to form and act, and as an explanation of citizenship, they include the ideologies and demands for rights and obligations that various groups may make. At the micro-level, the individual definition of citizenship focuses on how citizens see the relationship of rights and obligations within a framework of balance or exchange. The space of civil society helps to maintain the distinction between state-validated citizenship and group-initiated claims and defences.

Scope of Civil Society

As there is an amorphous and not clear cut relationship between civil society and the state, it is very difficult to draw a line between them, at least in Indian context. In India sometimes both of them enter into the arena of each other. Civil society encompasses a vast array of organisations, formal and informal including economic cultural, informational and educational, interest-based, and developmental, issue oriented and civic groups.⁴ Civil society is concerned with public rather than private ends and is accessible to citizens. It opens to public deliberations not embedded in exclusive, secretive, or corporate settings. It relates to the state in some way but does not seek to govern the polity as a whole. Rather civil society actors pursue from the state concessions, benefits, policy changes, institutional reforms, relief, redress, justice

⁴ Diamond, Larry, *Developing Democracy: Towards Consolidation*, John Hopkins University Press, 1999, p.222

and accountability to their scrutiny. Organisations, movements and networks that seek to displace ruling authorities from power, to change the nature of the state, and in particular to democratise it, remain part of civil society if their goal is to reform the structure of power rather than to take control of power themselves as organisations.

Pluralism and Diversity

Pluralism and diversity is the defining feature of civil society. It is within the sphere of civil society, contestation, debate, discussion and accommodation takes place on various issues. Within civil society, the state and its monopoly of power can be continuously monitored to accommodate or incorporate diverse groups by abandoning the undemocratic practises. “Civil society encompasses pluralism and diversity. To the extent that an organisation, such as religious fundamentalist, ethnic chauvinistic seeks to monopolise a functional or political space in society, crowding out all competitors while claiming that it represents the only legitimate path, it contradicts the pluralistic nature of civil society.”⁵ Thus civil society has greater capacity to fill the democratic deficit in various states and to make them more accountable and responsive.

Civil Society Debate in the West

The penchant for civil society in the West started much earlier, and initially formulated by political philosophers in terms of the distinction between public and private spheres of life. In the long journey towards twenty first century, civil society has been linked to secularisation by challenging ecclesiastical claims, individual

⁵ Ibid, p.223

rights, law, ethical life etc. But as a concept, civil society emerged as a serious political discourse during the sixteenth and seventeenth century Europe.

In late seventeenth century, John Locke set forth an idea of civil society as that which exists or emerges only when the citizen's right to life; liberty and property are guaranteed by law. He linked civil society with legal authority which is the main source to protect individual rights. "Locke differentiated civil society both from state of nature as well as political society. At the general level, Locke maintained that civil society comes into existence when men possessing the natural right to life, liberty and estate, come together, sign a contract and constitute a common public authority"⁶ the perfect freedom and an uncontrolled enjoyment of all the rights can be enjoyed only in state of nature and the moment individuals enter into contract forming civil society, all the private judgements of the individuals come to be qualified.

The debate on civil society is not free from the debate on the state. This is also evident in various writings by western scholars. The fundamental tension in these writings is between the particular interest and universal interest; between the selfish goals of the individual actors and the need for some basic collective solidarity in a moral community. Adam Fergusson sought to resolve this conceptual tension in his *An Essays on the History of Civil Society* in 1767 by characterising human nature as an embodiment of moral sentiments and natural sympathy. He viewed both civil society and state as identical. He says that a civil society is a type of political order which

⁶ Mahajan, Gurpreet, Civil Society and Its Avatars, *Economic and Political Weekly*, Vol. XXXIV, No.20, May 15th 1999, p.1188

protects and 'polishes' its mechanical and commercial arts, as well as its cultural achievements and sense of public spirit by means of regular government, the rule of law, and strong military defences.⁷

De Tocqueville conceptualised civil society as an indispensable counterpart to any stable and vital democracy. He argued that democratic associations should be kept fit and in readiness so as to curb the power of the state if and when the occasion arose. Absolute power should not be vested in any single authority which is why checks and balances are required. As democratic states tend to give the legislature too much power, democratic associations and voluntary associations are necessary to exercise countervailing pressures. For De Tocqueville, the intermediate institutions possessed a rationale quite independent of the modern democratic state.⁸ Thus he recognised the virtues of the habit of forming associations in general and voluntary associations in particular and associated them as the core of the notion of civil society.

Hegel was the first philosopher who developed a recognisably modern notion of civil society in his *Philosophy of Rights*. At the hands of Hegel, the idea of civil society is first concerned with the proper relation between state and civil society as separate spheres. However, Hegel's theory of civil society also gave the concept a pejorative orientation for the first time. The state in order to realise its universality, requires the creation through civil society of individual freedoms and the ability to satisfy needs. Yet, by the very process of development, civil society is increasingly

⁷ Keane, John (ed.) *Civil Society and State: New European Perspectives*, Verso, London, 1988, p.40

⁸ Gupta, Dipankar, *Culture, Space and Nation-State*, Oxford University Press, New Delhi, 2000, p.171

characterised by chaos and inequality that undermines ethical unity. Such ethical unity is found only in the universal state, which although it should not abolish civil society, should rule and guide it.

The dominant pre-modern tendency to draw a sharp distinction between civil society and the state could be traced back to the philosophy of Hegel as he gave a comprehensive idea of civil society. For him, civil society is an intermediary stage between the unreflective emotions of the family and the universal logic of the state. It is a stage in the formation of the state. He puts forth the notion of civil society as one that emerges from the interdependence of individuals, their conflicts and their needs for co-operation. Their needs give rise to state and law. Thus it is the principle of rightness, which links civil society to the state. Hegel has subordinated civil society to the state because he regarded the state as the manifestation of universality. John Keane says that civil society acquired a less positive meaning at the hands of Hegel as he viewed civil society as a self-crippling entity in constant need of state supervision and control. He looked at civil society as a historically produced sphere of ethical life, positioned between patriarchal household and universal state. It includes market economy, social classes, corporations and institutions concerned with the administration of welfare and civil law.⁹ From Locke to Hegel, civil society simply meant the establishment of institutions by a constitutional democratic state that would guard and enlarge the principles of liberty.

⁹ Op.Cit.(Keane), p.50

Marx says that civil society is a product identifiable with bourgeoisie society because bourgeoisie has created unprecedented revolutionary situation forcing the development of science and technology and unleashing the full productive powers of the community. It has also created new forms of social relations. Marx reversed the Hegelian understanding of civil society by postulating the primacy of civil society over the state. He saw that the state as a secondary or subordinate phenomenon in relation to civil society where it is not the state which conditions and regulates civil society but it is civil society which conditions and regulates the state.¹⁰ Marx says that civil society is marked by inequality, alienation and exploitation and for this reason he branded civil society as bourgeoisie society. Thus Marx identifies civil society primarily with economic realm manifest through the market. For him civil society is an illusion that needs to be unmasked. The apparent freedom of action granted to individual in reality serves to disguise underlying realities of class exploitation. The capitalist state, instead of resolving the tensions of civil society, merely cements the power of the ruling class. Citizens are fragmented, alienated from each other as well as from the means of production and the product of the labour. Civil society embraces all the material relations of individuals within a definite stage of the development of productive forces. It embraces the whole commercial and industrial life of a given stage, and, hence, transcends the state and the nation, although on the other hand, it must assert itself in its foreign relations as nationality and inwardly must organise itself into a state.¹¹

¹⁰ Ibid, p.76

¹¹ Ibid, p.82

Gramsci is the first Marxist writer who used the concept of civil society in his analysis of society in relation to highlighting dominance in the society. He isolated civil society as a category of importance in its own right. He characterised civil society as the realm of culture and ideology, or more concretely as the associational realm made up of the church, trade unions etc. through which the state, under normal circumstances, perpetuates its hegemony. This associational realm forms a non-state and non-economic sphere. He saw civil society as having the potential for dual autonomy from both the market relations and the state. He was the first to articulate the idea that civil society in a moment of counter-hegemony could actually be resistant to state power. Civil society in Gramsci does not belong to the structural sphere, but to the super structural sphere. Gramsci linked civil society domain with voluntarism or a sphere of willed action whereas Marx identified this particular domain with structural determinism. Norberto Bobbio observed that Gramsci does not derive his concept of civil society from Marx but is openly indebted to Hegel. Gramsci refers to civil society as comprising of private organisations like the church, trade unions, schools etc. and it is in civil society that intellectuals operate in a special way. It is the sphere where capitalists, workers and others engage in political and ideological struggles and where political parties, trade unions, religious bodies and a great variety of other organisations come into existence. It is not only the sphere of class struggles; it is also the sphere of all the popular democratic struggles which arise out of the different ways in which people are grouped together by sex, race, generation, local community, region, nation and so on. Thus it is in civil society that the struggle for hegemony between the two fundamental classes takes place. Gramsci says that civil society is

ethical or moral society because it is in civil society that the hegemony of the dominant class has been built up by means of political and ideological struggles.

Habermas proposes the distinction between private sphere and public sphere to formulate the notion of civil society. According to him, the political system is driven by administrative power, the economic system is guided by money and exchange and the life world and its self organised public sphere is based on communication. The concepts of life world and civil society are related but not fully overlapping, as it also includes the private sphere of mutual understanding. Thus for Habermas civil society is the realm of societal organisation and shared political efforts. The institutional core of civil society comprises of those non-governmental and non-economic connections and voluntary associations that hold the communications structures of the public sphere in the social component of the life world. He says that the institutions of civil society must act to protect the autonomous development of public opinion in the public sphere from being undermined or colonised by the state bureaucracy, the system of power and by the economic power of the market

Robert Fine has privileged civil society. He has argued that civil society furnishes the fundamental contradictions of liberty in the modern world and has emphasised on the emancipatory potential of civil society. In another significant contribution to the debate Ernest Gellener has emphasised on the 'civility' of civil society. 'Civility means the importance of treating others with respect and tolerance, because individual self realisation is bound up with and dependant upon the self

realisation of other individuals.¹² Gellener has traced the emergence and consolidation of the ideas of pluralism and tolerance within society emphasising the role these ideas play in sustaining democratic interaction and has argued that they are closely linked with the emergence of civil society. He defines civil society not in terms of its countervailing social institutions, but through the exercise of state power. In his opinion, civil society refers to a total society within which the non political institutions are dominated by the political ones and do not restrain individuals either. His definition of civil society is based on individualism. It neglects the dialectical relationship between state and political and non political institutions that balance their field of influence and authority.

Michael Walzer speaks of civil society as the space of uncoerced human associations which also set the relational networks – formed for the sake of family, faith, interest and ideology – that fills this space. He feels that a fully and freely engaged citizen and fully committed decision making members have a great role to play in this process. He says that to live well is to be politically active working with our fellow citizens, collectively determining our common destiny, not for the sake of this or that determination but for the work itself, in which our highest capacities as rational and moral agents find expression. We acknowledge our selves best as persons who propose, debate and decide.¹³ Walzer says that only a democratic state can create a democratic civil society. Civil society is thus the “setting of settings”, where people

¹² Chandhoke, Neera, *State and Civil Society: Explorations in Political Theory*, Sage Publications, New Delhi, 1995, p.34

¹³ Walzer, Michael, ‘The concept of Civil Society’, in his (ed.) book *Towards a Global Civil Society*, Berghahn Books, Providence and Oxford, 1998.

associate with each other on various grounds but notably for the sake of realising their natures as social beings. He writes “the picture here is of people freely associating and communicating with one another, forming and reforming groups of all sorts, not for the sake of any particular formation – family, tribe, nation, religion, commune, brotherhood or sisterhood, interest group or ideological movement – but for the sake of sociability itself. For we are by nature social, before we are political or economic beings.”¹⁴

For Charles Taylor civil society is expressed in a programme of building independent forms of social life from below, free from state tutelage. He argued that civil society comprises “those dimensions of social life which cannot be confounded with or swallowed up in the state”.¹⁵ Jean Cohen conceptualises civil society as involving a classical liberal stabilisation of societal institutions on the basis of rights. It comprises a social realm including a plurality of institutions, associations and voices; a domain of autonomous moral choice, that is, privacy; and legality, that is a legal system incorporating a system of basic rights that protect and demarcate this social realm. Arato describes civil society as a complex of institutions that endorse the rule of law and guarantee of civil rights, a free public sphere and a plurality of independent associations. Civil society in the hands of Cohen and Arato became a normative model of a societal realm different from the state and the economy.

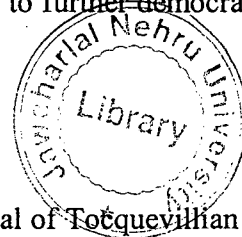
¹⁴ Chandhoke, Neera, The ‘Civil’ and the ‘Political’ in Civil Society, *Democratisation*, Vol.8, No 2. Summer 2001, p.4

¹⁵ Ibid.

Thus the tension between individualism and community life, the need to check the untrammelled power of the discredited state and also to invent or discover some kind of republican virtue or public spirit propelled the theorists to talk about civil society. But in liberal democratic theory the concept of civil society has acquired a new salience and a visibility only recently because of two contemporary developments.

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Break up of Communist regimes in Eastern Europe; The failure of the communist system shows that attempts to abandon the liberal separation between state and civil society are dangerous. It is this failure that has done most to revive the notion of civil society especially in Eastern Europe. It generated a vast interest in civil society and its importance for the health of liberal democracy. In the context of the bureaucratic authoritarian regimes, an active civil society was conceptualised as a sphere of society independent of the state and its existence was considered as a necessary pre-condition for establishing democratic institutions in those societies. Civil society was conceptualised as a sphere of social self management, private initiative and freedom of thought and association. As Cohen has pointed out the concept of civil society came to be strengthened by the new social movements which developed around that time in Western Europe and aimed to further democratise state and society.



Celebration of Associational Pluralism; The renewal of ~~Totquevilian~~ tradition of celebrating associational pluralism in the United States, contributed a lot to focus

on civil society. During the Cold War period social pluralism and an active civil society were cited as the democratic answer to Soviet totalitarianism. Subsequently it was also presented as a means of democratising bureaucratic welfare states. The concept was incorporated into the neo-liberal theories which dominated the Anglo-American world in the Eighties and the Nineties and advocated a powerful, regulated state, balanced by an active society. In these theories, civil society mediates between state and market and represents a sphere outside state control and one which gives maximum scope for individual freedom and self-determination.

In contemporary discussions, there is no agreement about the proper location of the sources of civil society, sources which ought to and actually can restrain and moderate the state. Three responses exist on this issue.

Liberal position view the effective power of civil society as basically residing in the economy, in property rights and markets where such rights can be freely exchanged. Liberal model anchor civil society through granting market freedom to the individual and make an arrangement where individuals and groups bargain at the level of market as a constituent of civil society.

Radical position locates civil society in a zone independent of the economic domain and the state, where ideas are publicly exchanged, associations freely formed and interests discovered.

Conservative position prefers to see civil society as residing in a set of cultural acquisitions, in a historically inherited manner of civility, which moderate between groups and individuals.¹⁶

Marxists say that civil society is a constructed arena, a set of social practices which reproduce the logic of capitalist economy in its social interaction and politics, and where the state intervenes to ensure reproduction. Civil society in capitalist society is the arena for individuation. The individual in this civil society is characterized by two identities, right-bearing citizen and consumer. To participate in the political forum and the market, the individual has to be untainted by any idea of personal or caste loyalty.

Civil Society Debate in India

The clamour for civil society in India is relatively recent. In India there are diverse views on civil society across several writers. It has now become a favourite theme in the baggage of intellectuals. For that reason, it has harboured many ambiguities in its understanding. Still there has not been any noteworthy theorisation on civil society in Indian context.

Even in the West, there is no univocal understanding of civil society, which can be simply fitted to Indian conditions although as a concept it has been India, but it

¹⁶ Khilnani, Sunil and Sudipta Kaviraj ed. *Civil Society: History and Possibilities*, Cambridge University Press, 2001 pp.13-14

is undeniable that as concept it is historically constructed in the West.¹⁷ Due to colonial legacy, the state in India still occupies a central place in the maintenance of order and development which has made it overarching. In India both state and civil society are intertwined. Civil society in the West should not be compared with that of India as societies in India and the West have taken different paths in defining themselves. In the West civil society, state and market emerged successively, each of these spheres acquiring a certain level of autonomy. But in India, de-colonisation, state planning and control over the economy acquired strong statist flavour. Due to continuing hold of local traditions, history and social exigencies, which still cast the spell on Indian society; it has not developed a civil society comparable to the West.

One of the early votaries of civil society in India is B. R. Ambedkar. He entertained and nurtured different notions of the domain of the civil but under a strong state. As a domain of rights under the law, civil society had a critical role to play while engaging with the inequalities in society. For him, 'civil society was a contentious terrain, a platform of struggle as well as a platform of rights.' As the platform of rights, it was possible to investigate the extent of prevalence of rights and to identify the obstacles in this regard. Only, through struggles, these obstacles could be removed.¹⁸ Civil society is the zone, where marginalization can be transformed and the struggle within the civil society is the struggle against gradation and ranking within the society by a search for indigenous alternatives. The state, he thought should

¹⁷ *ibid*,p.3

¹⁸ Rodrigues, Valerian, on B.R. Ambedkar and Civil society, a paper in the internet, p-2.

play a partisan role in this regard. Ambedkar sought to build a theory by taking into account certain substantive functions of the state and relating them to the civil society.

Jaya Prakash Narayan sought to build a civil society through a movement envisaging fundamental changes in the social, economic, political, cultural, educational and moral spheres. Within the civil society the uplift of the poorest and the weakest including the *harijans*, *adivasis*, Muslims, the agricultural labourers, landless farmers was uppermost in his mind which could be achieved only through their struggles.¹⁹ He pleaded that the principle to constitute a just and equitable social order is freedom and democracy alone could guarantee this freedom within the society. He saw it operationalised in *bhoodan and gramdan*. In *bhoodan*, he found the beginning of an all-round social and human revolution aiming to change man along with society.

The nationalist discourse on civil society has been comprehended by Partha Chatterjee in his own unique manner. The domain of civil society has been identified by him with the language of modernity made of reason, science, autonomous self representation, equal rights and citizenship. The project of modernization of actually existing social institutions was continued under the invigorated leadership of the nation-state with the active collaboration of the institutions of modern civil society. The liberal definition of civil society accompanied by the virtues of equality, autonomy, freedom of entry and exit, contract, deliberative procedures of decision-

¹⁹ Narayan, Jaya Prakash, *Total Revolution*, Sarva Seva Sangh Prakash, Varanasi, Second edition, 1992, p. 65.

making, recognition of rights and duties of its members, was suspected as Euro-centric and conceived by many as inappropriate to non-western societies like India.

In India, for the large section of the nationalist leadership, the project was to create a civil society that was not reflected in traditional practices. In India, civil society can be understood as those institutions of modern associational life set up by nationalist elites in the era of colonial modernity and sometimes as a part of their anti-colonial struggle. Chatterjee points out that this domain of civil society will remain an exclusive domain of the elite as the actual 'public' would not match up to the standards required by the civil society and that the function of civil social institutions in relation to the public at large would be a pedagogical rather than of free association.²⁰

Civil Society and Traditional Ties

The debate on civil society in the Indian context has unleashed a torrent of controversy. Eminent writers like Rajni Kothari, Ashish Nandy and D.L. Seth more or less see civil society as an embodiment of customary and traditional ties. They understood "civil society as a realm which is inimical to modernity and its creations. As the constitutional state is also a modern phenomenon, it is also extremely suspect.

²⁰ Chatterjee, Partha *Wages of Freedom: Fifty Years of the Indian Nation-State*, Oxford University Press, New Delhi, 1999, pp12, -13. Chatterjee was the one who is demonstrating that the domain of civil society is restricted to the fairly small section of the population that is the 'proper citizens' as there is an insistence to follow the project of modernity of the west and transplanting into non-western societies, which makes the project incomplete. At the same time, he says that the model of tradition-modernity dichotomy can be followed to have some sort of understanding about the domain that lies outside the domain of modern civil society.

Civil society thus lies in tradition and customs that are either before the state or outside the state”.²¹

Civil society's allure in India has roots in a general disenchantment with the state. In India, interest in civil society is fomented by the perceived inability of the state to deliver the fruits of technology and modernisation to the average citizen. A majority of Indians have experienced only the down side of technology, while the state calmly abets the aggrandizement of elite. This minority has an access to state of the art technology, which it uses to dominate the many and in this process the acquiescence of the state is often blatant.

According to Rajni Kothari, who is the foremost exponent of civil society, argues that civil society resided among the poor and the down trodden. He feels that the crisis of governance in contemporary India comes from the state's efforts to stifle the initiatives of the poor and the marginalized by relying on a 'techno-managerial structure'.

Indian academics revolve around the dichotomies of rural and urban, and tradition and modernity within civil society. But Kothari is the sympathiser of rural India which is in the villages, traditions and in the 'sub-merged civilizations'. To quote Kothari, "civil society's ordering of politics and governance is, in my view, the take-off point of human governance. Such a re-entry is what contemporary social movements strive for. Human rights movements, ecology movements, women's

²¹ Op. Cit. (Gupta, *Culture, Space and Nation State*) p.165

movements, the peace movements are all about restoring the 'good life' in the conduct of human affairs. Such sources of regeneration.....*lie more in the South than in the North, more in women than in men, more in the marginalized than in the powerful, more in ethnic identities and submerged civilizations than in dominant cultures.*" According to Kothari human governance should give primacy to endogenous impulses and aspirations as these emerge spontaneously from the people. This prompts Kothari to repose his confidence in non governmental organisations as they are closer to the marginal and subjugated people and hence better tuned to the stirrings of civil society. Kothari says that civil society can act as an alternative to the state. He says that civil society must draw upon available and still surviving tradition of togetherness, mutuality and resolution of differences and conflicts. He says that the basic political task facing India is the creation of civil society that is rooted in diversity yet cohering and holding together. By focussing on market efficiency, profitability, development and national security perspective of Indian state, Kothari is praising the importance of civil society.²²

To add to Kothari's view, Chandhoke dealt with the issue of the creation of a civil society in the post colonial world including India as a framework of interaction

²² Kothari, Rajni, Integration and Exclusion in Indian Politics, *Economic and Political Weekly*, Volume 23, 1988, pp2223-2226. Rajni Kothari says that civil society must draw upon available and still surviving traditions of togetherness, mutuality and resolutions of differences and conflict in a traditions of a democratic collective that are our own and which we need to build in a changed historical context. This is the political task facing Indians- the creation of civil society that is rooted in diversity yet cohering and holding together. He has provided a cultural critique of the Indian state as it is insensitive about to the myriad diversities of the subcontinent. In this context, he says that state is quite unambiguously an alien construct. The state does not bring unity rather the real project of the state is cultural, political and social homogenisation. By showing the deficiency of the state, he put confidence upon the civil society organisations as they are closer to the marginal and subjugated people, which, in fact may not prove true as they are now much away from the dreams of Kothari.

among right-bearing individuals based on a commitment to equality and freedom. She says that this effort has been vitiated by the very process which the post colonial elites consider essential, namely development (through modernisation) of the economy by following the European model and building a strong nation state out of a plurality of social groups. Both these processes lead to homogenisation of society, creating anxieties in the minds of various identity groups. The development process generated inequities which excluded vast sections of the poor and the marginalized from the operation of the civil society and erected an authoritarian state which often resorted to repression against the forces which challenged the system. Thus contrary to its original postulate, as a liberating idea, the concept of civil society turned out to be a legitimising ideology of a coercive state. So for the people of the post-colonial world the creation of civil society as the sphere can be made sense of where the democratic politics can be constructed. "Civil society has become leitmotif of movements struggling to free themselves, from unresponsive and often tyrannical post-colonial elites."²³ By slightly differing from this position, Manoranjan Mohanty views the democratic struggles of Dalits, Adivasis, peace movements, women movements and generally people's movements as a whole through the strategy of mobilisation as begetting a creative society. He sees people's movements as generated through excitement of people's imagination to strive for greater freedom and equality and covering many movements for people's rights.²⁴ Asish Nandy compliments the NGO's and argues that western oriented people in India first look to the state and adjust their

²³ Chandhoke, Neera, in *People's Rights: Social Movements and the State in the Third World*, Manoranjan Mohanty, Parthanath Mukherji and Olle Tornquist, (eds.) Sage, New Delhi, 1998, p30.

²⁴ Manoranjan Mohanty has credited creative society and understood it as the society referring to a phase of development of a society on which large number of potential contradictions becomes articulate and active and this is most evident when oppressed social groups get politically mobilised.

culture accordingly and this is why the state is oppressive to those who are true and real to their indigenous cultural moorings. D.L.Seth too delves into the merits of NGO's for they are free from the power seeking homogenising logic of the state.

Tradition should not be outrightly rejected. It should also be regarded as the source of solving various problems. So rather than taking an unsympathetic, jaundiced attitude towards tradition, it should be taken care of as a source of social solidarity. Even today the traditional mechanisms of water harvesting, traditional way of conducting village panchayat meetings are fruitful. Primordial ways of building mutual trust and fraternity are still working in India as integral to the inheritance of culture.

In India, civil society is synonymously used with NGOs and advocacy groups. But to be clear, they are several agents of civil society lumped together. In the Indian context, civil society includes not only NGOs but also variety of social movements which have been extremely articulate in expressing protest on issues such as the environment, involuntary displacement, and the rights of tribal peoples and so on. In doing so, these social movements, more than the considerably larger NGO sector have raised issues of modes of governance, including people's participation in development related decision making.

Civil Society as Intermediate Institution and Modernity

Jawaharlal Nehru started the project of modern Indian nation-state following independence. He was rational, secular and modern as he viewed himself in relation to the entire project. The well being of the modern institutions can be guaranteed only if civil society is presumed to be truly autonomous body. Beteille has suggested that traditional solidarities and associations are inimical to the functioning of modern institutions in which he includes universities, judiciary, hospitals and corporations. He is worried about the deterioration of these modern institutions and suggests that the primary duty of the state is to save these institutions. He feels said these modern open and secular institutions which include institutions like Apollo Hospital, Doon School etc. are secular in the sense that their internal arrangement is not based on religious rules and authorities. He says that these intermediary or mediating institutions relates individuals to society, to the state and with each other. Beteille is for upholding institutional autonomy of intermediate institutions for that would be the most effective guarantee against a demagogic state. But the institutions that Beteille eulogises may not be emancipatory for the people in the civil society because most of the citizens do not have access to these modern institutions.

The Indian state is susceptible to mass political pressures and to sectarian and communitarian forces. Such a state would necessarily undermine the well being of the intermediate institutions, which is where civil society lies. In order to protect civil society it is important to keep these institutions autonomous and independent of state control. Civil society is a part of modernity and modernity is linked to institutions set

up during the period of colonial rule in India.²⁵ In the opinion of Partha Chatterjee, civil society has been cornered by the better off sections and members of the elite. He feels that even institutions set up by colonial governments should be considered as agencies of civil society and the primary task of civil society is that of constituting a community of citizens bound by the ethics of freedom and not to avow hierarchy and tradition, or the rational legal calculus of market place. He also overlooks the close link between civil society and citizenship. His view has an affinity with Sudipta Kaviraj who sees civil society institutions as originating in India during the colonial era in general with the rise of liberalism, nationalism and capitalism.²⁶

What should Civil Society strive for?

The concept of civil society should not be overemphasised. Civil society, in whatever manner it is presented in Indian context, be it social movements or NGOs, first and foremost should strive for strengthening citizenship rights, facilitate governance and expand democratic base in India. We should not be overtly concerned about tradition and modernity within civil society in India rather attempt should be made to achieve good governance through civil society. Civil society has enough capacity to make procedural democracy into substantial democracy.

²⁵ Chatterjee, Partha, 'Beyond the Nation? Or within?', *Economic and Political Weekly*, Vol.32, pp30-34

²⁶ Sudipta Kaviraj has lost his faith upon Indian state as it is under serious crisis. This paradox of Indian state is because of greater entrenchment of the social form of Indian capitalism. Earlier, the social form of Indian capitalism realised the state as a historical precondition for its much of its economic endeavours and for its political security. When Indian capitalism was relatively weak, the state was stable and legitimate. See for details, Sudipta Kaviraj, 'A Critique of the Passive Revolution' in Partha Chatterjee (ed), *State and Politics in India*, Oxford University Press, New Delhi, 1997, p-46.

A civil society opposed to all kinds of exploitation and domination has to rally against the over extended state. A state controlled and dominated by the self-centred ruling classes consisting of political leaders and bureaucrats, subjugates people to bondage and slavery. As long as the exploitative and hegemonic forces in society are not countered and contained, till then people will be denied equality, freedom and justice. Civil society should aim at emancipation of people from multiple domination through debate and discussion buttressed by social bonding and solidarity. It has a role to make state more responsive, to make society more participative and also to redefine the developmental policies of the state as to be more inclusive. In the case of India civil society can not be envisaged as anti state or pro-state, it should always be pro-people and pro-poor. The Indian state has to act as enabler of civil society in India. To have citizen friendly, transparent, accountable and efficient governance which deepens and consolidates democracy, an organised, vibrant, healthy and plural civil society is needed. Democratic decentralisation or deconcentration of power in the hands of few is a precondition for a vibrant civil society. Indian civil society is still in an embryonic form, it has to be re-invigorated and for this to happen some kind of synergy is needed between civil society and state.

Chapter-Two

**Debating Civil Society and Political
Society**

Chapter-2

Debating Civil Society and Political Society

The category of political society is an explanatory variable used by Partha Chatterjee to understand the political developments in post-colonial societies. In that sense, the political society is co-terminus with civil society in the west. So, it is assumed by Partha that civil society is loaded with euro-centrism and can not capture the imagination of people in these societies.

The relation between state-civil societies is deeply overladden yet fluid and it becomes difficult to have some sort of neat consensus on these distinctions. Sometimes this distinction is regarded as expressing individual idiosyncrasies while in other instances it seems ephemeral. Partha Chatterjee has undertaken the strenuous task of seeking a rapprochement between them in the category of political society. This chapter basically looks at political formations taking shape outside the domain of civil society and formal political institutions that is taking place in the domain of political society. Between civil society and state, political society comes to play some kind of mediation. This domain as a sphere of mediation becomes important for the postcolonial societies like India given their historical specificities and concrete political lay-out. We will also consider the arguments thrown up by Charles Taylor, Sudipta Kaviraj apart from Partha Chatterjee in this regard.

By proposing the new concept of political society, Partha Chatterjee has shed new light on the discourse of civil society and has sought to contextualise the concept of civil society in post colonial societies in general and India in particular. The idea of political society helps us to understand certain specific developments in the non-western world more particularly the challenge of absorbing and accommodating the marginalised in the post-colonial countries and specifically in India.

The concept of political society provides a social location to sections which have been neglected in liberal democratic politics, as this was the one to which Chatterjee was attacking for. Partha Chatterjee might be thinking in terms of accommodating subalterns through the space of political society as he imagines for redefining politics to include processes outside the formal sphere of state politics and to open up spaces in state and civil society for the subaltern, which will be difficult to achieve, but easy to accomplish in political society.¹

The irresolvable tension between the liberal idea of individual rights and communitarian good, and tussle between tradition and modernity has propelled Chatterjee to speak of political society. The category of political society is based on the presumption that there is a domain that lies outside the modern civil society and this domain can be conceived through the agencies, which define, make and preserve the notion of the political. Political society refers to a domain of institutions and

¹ I assume that Chatterjee does not use "political society" in a Lockean sense rather it has been an explanatory model, first to highlight the deficiency in liberal model of assimilation of people and then accommodating those who are outside the framework of privileged few in Liberal model.

activities where several mediations are carried out and this domain includes parties, movements and non-party political formations². The politics of political society involves both a cultural and political intervention in the formal political realm. Though liberal discourse was deeply entrenched into Indian society and polity even since the deliberation of Indian constitution, in the post-colonial period, it has proved to be deficient and inadequate. The concept of political society challenges the liberal democratic model of assimilation of people as citizens enjoying equal civil and political rights.³ The residual category of political society challenge the liberal democratic state through its accompanied virtue of modernity, as it has proved inadequate to articulate and channel people's demands through its projected features. The case for modernity in a non-modern and non-western context will be discussed in little detail in the subsequent section.

The democratic rights and demands of people can be expressed in a political society as it was visualised by Partha Chatterjee. The category of political society provides a social location to marginalized and excluded sections which has not been properly theorized in the scheme of understanding of liberal democratic theory as they remained outside the 'properly constituted' civil society of the urban elites⁴. So Partha Chatterjee is looking for a scheme to redefine politics to include processes and transactions outside the formal sphere of state politics and to open up spaces in state

² Chatterjee, Partha *Wages Of Freedom: Fifty Years of the Indian Nation-State*, Oxford University Press, New Delhi, 1999, pp13, -15.

³ Joseph, Sarah, 'Society vs. State? Civil Society, Political Society and Non-Party Political Process' in India, *Economic and Political Weekly*, Jan26, 2002, pp302-303.

⁴ See no-2, p-14.

and civil society for the subaltern who share the communitarian ideals of collective good.

In Chatterjee's enterprise, the domain of civil society is not inclusive of political society. The institutions of civil society in the post-colonial societies in India are identified with the modernity and modern associational life set up by nationalist elites in the era of colonial modernity and sometime it is carried out as part of the urge against anti-colonial struggle.⁵ These institutions of modernity encompass the urge of the nationalist elite to imitate the forms as well as the substance of western modernity in their own nation. So if this is the case, then the domain of civil society is a restricted domain, because it is an exclusive domain of the elites. There are vast majority of people, in Chatterjee's word; the 'actual public' will not match up to the standards required by civil society. So, the political society can provide a platform to the vast masses in post colonial state like India. In this sense, at least, for Partha Chatterjee, the domain of civil society is different from the political society.

Interrogating Modernity

It would be appropriate at this stage to consider a little the philosophical foundation of modernity and its underpinnings on which the dichotomy between civil society, state and political society rests and is conceptualized in the non-western world. It can be said that the roots of the enterprise of modernity lie in the central

⁵ Chatterjee, Partha, "Beyond the Nation? Or Within?" *Economic and Political Weekly*, Vol-32, Jan 4-11, 1997, p-32.

aspiration of reformation and enlightenment seeking moral autonomy and social-political self-determination.

Jurgen Habermas's *The Philosophical Discourse of Modernity*, outlines certain core issues related to this process. In Habermas's presentation, the discourse was inaugurated by enlightenment thinkers from Descartes to Voltaire and crystallized in the rationalist theories of Kant and Fichte. Habermas pays attention to the disillusionment with the enlightenment project of modernity and the loss of faith in reason to direct our lives. He argues that reason is reduced to an instrumental mode only with the philosophy of consciousness. He believes that an alternative paradigm of reason would facilitate a balanced development of different dimensions of rationality necessary for understanding and living in a modern world. But Foucault would disagree with Habermas by saying that disciplinary society emerged from within the folds of the enlightenment project of modernity and this enterprise of modernity keeps little space and hope for rehabilitation. Foucault says that reason is embedded in socio-cultural contexts and mediated by natural languages and also implicated in a complex network of power or knowledge. For Foucault, reason, knowledge and truth can never escape from relations and effects of power because they are constitutive of each other.⁶ Kant has understood modernity in terms of progressive refinement of consciousness and subjectivity, specifically the separation of reason into the domains of science, ethical freedom, and aesthetic judgment.

⁶ Gaonkar Dilip Parameshwar, "On Alternative Modernities", in *Public Culture* 11(1):p9-10, 1999.

But Hegel, who is considered to be the first philosopher to develop a clear conception of modernity, locates it in the principle of subjectivity- a principle which carried for him mainly the connotations of individualism, critical rational competence, and autonomy of action.⁷ The colonial societies did not remain immune to the trappings of modernity. Though modernity originated in the west yet, it failed to take a proper and exact shape in the non-modern cultural systems like India. The ordinary people in the non-modern cultural systems are hesitant to subscribe the western modernity, which in a sense will assault and erode the cultural adaptation as well as the indigenous tradition. But Rajeev Bhargava would argue that the question of imitation of western modernity was very much there in India and it was taking place in an easy manner though instrumentally.⁸

Charles Taylor's beautiful analysis of modernity would help us to have some sort of understanding to differentiate between the western and non-western societies. He assumed that modernity is not one, but they are many.⁹ He talked of two types of modernities, that is cultural and acultural, though opposed to each other. A cultural theory holds that modernity always stretch out within a specific cultural or civilisational context and different routes for the transition to modernity lead to

⁷ Dallmayr, Fred, *Margins of Political Discourse*, State University of New York Press, Albany, 1989, pp39-40.

⁸ Bhargava Rajeev, "Liberal, Secular Democracy and Explanations of Hindu Nationalism", in *Commonwealth and Comparative Politics*, vol.40, November 2002, Number.3, Special Issue on Decentering the Indian Nation,(eds.) Andrew Wyatt and John Zavos, A Frank Cass Journal,pp-77. Though scholars like Javed Alam gives a different kind of argument by differing with Bhargava, contended that though many concepts originated in the western modernity are not only a living need to capture and nurture new expectations, aspirations and telos of life, but can also become rooted in many different cultural situations. The experiences gained by the colonial encounter also gave rise to a new bent of mind among the people alongside distinctly new goals, purposes and modes of activity. A different language which is required to articulate this experience was provided by modernity in the west.

⁹ Taylor Charles, "Two Theories of Modernity", in *Public Culture* 11(1), 1999, pp153-154.

different outcomes. Under the impact of modernity, all societies will undergo certain changes in both outlook and institutional arrangements. Though similar changes will take place, but they would not converge. A cultural theory directs us to examine how the force of sameness and the forces making for difference would interact in specific ways under the exigencies of history and politics to produce alternative modernities at different national and cultural sites.

An acultural theory of modernity describes the transition to modernity in terms of a set of culture-neutral operations which are viewed as 'input' that can transform any traditional society. In this approach, modernity is not specifically western, even though it may have started in the west. Rather, it is a form of life toward which all cultures converge as they go through one after another.

This examination of modernity was essential because Indian elites though wedded to the normative values modernity by subscribing to its constituents like reason, science, civil society and associational public sphere, yet they did not take that in totality rather there was a creative and selective adaptation of it. They negotiated and appropriated modernity in a selective manner. This particular view was also shared by Partha Chatterjee and Rajeev Bhargava as well. Indian elites have seriously thought out the convergence and the divergence between the western and the non-western modernity as well and then incorporated the good in both. But Taylor would argue that creative adaptation does not mean that one can freely choose whatever one likes from the various offerings of modernity. Creative adaptation does not mean refer

to a matter of adjusting and accommodating the form or recording the practice to soften the impact of modernity; rather it points to the manifold ways in which a people question the present. It is the site where a people make them modern, as opposed to being made modern by alien and impersonal forces and where they give themselves an identity and destiny. This particular aspect of modernity in Indian context make the domain of civil society exclusive and restricted to the selected few, who would negotiate these values. Here, we are really looking for alternative modernity in a pure post-colonial sense which will enable to empower and absorb vast masses outside the domain of civil-social institutions but in the domain of political society.

Civil Society Tradition in Europe

Though there are different understandings of civil society in European intellectual tradition, yet the domain has been defined sometimes in opposition to the state and at other times supportive of the state. Charles Taylor has distinguished civil society in three different senses in the European political tradition;

(a) In a minimal sense, civil society exists where there are free associations, not under the tutelage of state power.

(b) In a stronger sense, civil society only exists where society as a whole can structure itself and coordinate its actions through such associations, which are free from state tutelage.

(c) As an alternative or supplement to the second sense, we can speak of civil society wherever the ensemble of associations can significantly determine or deflect the course of state policy.

Indian elites during the colonial period came under the sway of normative values fostered under the influences of colonialism. The institutions, which developed avowing the same were kept under the control of this small section of 'proper citizens' as observed by Partha. At the vortex of this pure model of modernity, normative discourse can still continue to shape, and energise the evolving forms of social institutions in the non-western world.¹⁰ Civil society refers to those institutions of modern associational life set up or originating in western societies which are based on freedom, equality, autonomy and freedom of entry and exit, contracts, deliberative procedures of decision making, recognised rights and duties of members and other such principles.¹¹ Civil society in the post-colonial societies including India referred to those institutions of modern associational life set up by nationalist elites in the era of colonial modernity sometimes as integral to anti-colonial struggle.

Chatterjee has put forward the argument that the actual public do not match up to the standards required by civil society institutions, qualifying the reach of modernity. There is a hiatus between public at large and the proper citizens as such.¹² But at the same time the nationalist elites were following the pattern of liberal

¹⁰ Chatterjee, Partha, "Beyond the Nation? Or Within?" *Economic and Political Weekly*, Vol-32, Jan 4-11, 1997, p-31.

¹¹ Chatterjee, Partha, *Wages Of Freedom: Fifty Years of the Indian Nation-State*, Oxford University Press, New Delhi, 1999, pp10.

¹² Chatterjee, Partha, see no-10, p-32.

democracy and through that sought to make civil-social institutions more strong. Chatterjee says that the modern liberal democracy have performed more creditably in India due to the strength of civil social institutions, which are relatively independent of the political domain of the state.¹³

The modernisation project in India fostered by Nehru sought rational, secular and modern India with conformation to western modernity, in sharp contrast to Gandhi's pursuit of a land of self-sufficient villages. The ultimate triumph of the Nehruvian model had implications for India's future development as the institutions of the modern Indian nation state came to take root while at the same time forgetting the presence of a large number of traditional communities based on primordial loyalties.¹⁴ These traditional associations were also seen as the agents of social solidarity at the grassroot level.

In India, the project of modernization was incomplete as it had a disastrous consequence for a large chunk of masses and still remains incomplete. This incomplete project of modernity was criticized vehemently by many writers as the state, which was dreamt of as doing something extraordinary failed to fulfil the promises it had made and to cater to the needs of people.

¹³ Chatterjee, Partha, 'On civil and political society in postcolonial democracies', in Sunil Khilnani and Sudipta Kaviraj, (eds), *Civil Society; History and Possibilities*, Cambridge University Press, Cambridge, 2001, pp. 174-175.

¹⁴ Damodaran, Vinita and Maya Unnithan-Kumar, (eds.) *Postcolonial India: History, Politics and Culture*, Manohar publishers and distributors, New Delhi, 2000, pp. 17-18.

The Indian state may be appropriately characterized as an interventionist rather than a welfare state. This interventionism did subsume a welfarist orientation, but its primary purpose was developmentalist. The developmental initiatives of the state, however, were largely directed to the modern, industrial sector, while welfarist initiatives were directed substantially towards the redressal of poverty stemming from inequalities in the ownership of land, without however disturbing the rural power structure.¹⁵

Though the state was institutionalized in terms of welfare state on the basis of principles of liberal democracy, yet it had scant respect for democracy and its deficiency and the poverty of Indian state in the sense of catering to the needs of the marginalised was quite noticeable. In its journey from colonial state to post colonial state, some kind of mediation and contestation was taking place at the site of political society.

Partha Chatterjee has argued that how the society has constitutiveness from the preliminary level at the stage of family to that of population, which is differentiated but classifiable, describable and enumerable. The narrative of population contains large elements of naturalness and primordality and also becomes the target of policy through different instruments like economic policy, bureaucratic administration and law and also political mobilization.¹⁶ Within the two spheres of

¹⁵ See the footnote of Jayal, Niraja Gopal, "The state and democracy in India" in Vinita Damodaran and Maya Unnithan-Kumar, (eds.) *Postcolonial India; History, Politics and Culture*, Manohar publishers and distributors, New Delhi, 2000, p. 100.

¹⁶ Chatterjee, Partha, "Community in the East", *Economic and Political Weekly*, February 7, 1998, p. 281.

civil society and state, a wide array of modern associational life as created by political associations and parties were operating. The Indian National congress, which was representating and also operating in this arena, symbolized the discourse of nationalist politics. This arena of nationalist politics became site for strategic manoeuvres, resistance and appropriation by different groups and classes. Chatterjee has argued that there are inconsistencies between this domain of political society and civil society as the forms and methods of mobilization and participation in political society had some mismatch with civil society institutions. He has defined political society as comprising a sphere of social interactions, which would not be included in civil society in its classical definition.¹⁷ This type of mismatch takes place in these post colonial societies including India because of the total imitation of the concept of western modernity and its immediate contextualisation and universalisation in the non-western world. By looking at the historical trajectories and specificities of both colonial and postcolonial state from the vantage point of modernity, three things have been observed by Chatterjee. (a) The most significant transformations in the colonial period is that of civil society; and the most significant transformations occurring in the post-colonial state are political society, (b) Modernity becomes the ideal for social transformations in the colonial period and democracy becomes the ideal for social transformations in post-colonial period. (c) In the context of latest phase of the globalization of capital, we also witness an emerging opposition between modernity and democracy i. e, between civil society and political society.¹⁸ When parties,

¹⁷ Joseph, Sarah, " Society vs. State? Civil Society, Political Society and Non-party Political Process in India," *Economic and Political Weekly*, January 26, 2002,p. 303.

¹⁸ Chatterjee, Partha, "Beyond the Nation? Or Within?" *Economic and Political Weekly*, Vol-32, Jan 4--11, 1997, p. 33.

movements and non-party political formations channelised and order popular demands are made before the developmental state, it is known as democracy. For Chatterjee, this domain of political society has much significance and it should not be branded as traditional, backward and hostile to progress. The colonial state has always tried to create a limited and restricted civil society comprising the urban elites by subscribing to the normative principles of western modernity. The 'inescapable externality' of liberal democratic institutions in India has created a thin state, which could not penetrate deeply into Indian society.¹⁹ This is where the political society comes in and tries to liberate Indian society through the strategies of resistance and by highlighting the democratic rights and demands. In the post-colonial state, the strategies of resistance to the state had taken place in terms of the ideology and strategies of developmental state. During the colonial period, protection was sought against state intervention for indigenous culture and traditions and in the post-colonial period, it was done against the inadequate liberal democratic institutions to articulate and channelise people's demands and aspirations.²⁰

Collective Good and Community Ties

As the community relations and the communitarian ties are considered to be essential for strengthening and consolidating solidarity in a society, it seems to be important to explore in detail about the public sphere, community rights and the collective good. Jurgen Habermas in his work *Theory of Communicative Action* in 1984 argues that societies are characterized by system-integrating and symbolic-

¹⁹ Kaviraj, Sudipta, *Politics in India*, Oxford University Press, New Delhi, 1997, p. 11.

²⁰ Joseph, Sarah, "Society vs. State? Civil Society, Political Society and Non-party Political Process in India," *Economic and Political Weekly*, January 26, 2002, p. 303.

integrating functions. Symbolically integrating aspects are those such as family and interpersonal relations, which are based on consensus. System-integrating functions are those that relate to political power and the economy. According to him, these two modes of integration functioned in tandem, but modern societies have uncoupled them. The 'life world', which is the zone of consensus and easy inter-subjectivity, is now overwhelmed by the system-integrating forces of money and power.²¹ The public sphere as a communication structure rooted in the life world through the associational network of civil society. The public sphere can be characterized as a network for communicating information and points of view (i.e., opinions expressing affirmative or negative attitudes); the streams of communication are, in the process, filtered and synthesized in such a way that they coalesce into bundles of topically specified *public* opinions. Like the life world as a whole, so, too, the public sphere is reproduced through communicative action, for which mastery of a natural language suffices; it is tailored to the *general comprehensibility* of everyday communicative practice. The public sphere distinguishes itself neither through a *communication structure functions* not by the *contents* of everyday communication but the *social space* generated in communicative action.²² The political public sphere can fulfil its function of perceiving and schematizing and encompassing social problems only insofar as it develops out of the communication taking place among *those who are potentially affected*. It is carried by a public recruited from the entire citizenry. As both bearers of the political public

²¹ Dipankar Gupta, "Civil Society or the State: What Happened to Citizenship", in Ramachandra Guha and Jonathan Parry, (eds.), *Institutions and Inequalities*, Oxford University Press, New Delhi, 1999, pp. 236-237.

²² Jurgen Habermas, 'Civil Society and the Political Public Sphere' in (eds.). Craig Calhoun, Joseph Gerteis, James Moody, "Steven Pfaff and Indermohan virk", *Contemporary Sociological Theory*, Blackwell Publishers, pp. 358-359.

sphere and as *members of society*, citizens occupy the roles of employees and consumers, insured persons and patients, taxpayers and clients of bureaucracies, as well as the roles of students, tourists, commuters, and the like; in such complementary roles, they are specifically exposed to the specific requirements and failures of the corresponding service systems. Such experiences are first assimilated “privately”, which are interpreted within the horizon of life histories intermeshed with other life histories in the contexts of shared life worlds.²³

Rise of the public sphere in Europe is considered to be a space outside the supervision of political authority where opinion could present itself, as that of society and this was crucial in connecting a reconstructed cultural identity of the people with the legitimate jurisdiction of the state. The public sphere was then not only a domain that measured the distinction of state and civil society; by creating the cultural standards through which “public opinion” could claim to speak on behalf of the nation. It also united state and civil society. Civil society now became the space for the diverse life of individuals in the nation. The state became the nation’s singular representative embodiment, the only legitimate form of community.²⁴ Civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distill and transmit such reactions in amplified form to the public sphere. The core of civil society comprises a network of associations that institutionalises problem

²³ See no-22, p-362.

²⁴ Chatterjee, Partha, *The Nation and Its Fragments*, Oxford University Press, New Delhi, 1994, p. 236.

solving discourses on questions of general interest inside the framework of organized public spheres.²⁵

Thus, civil society enables the emergence of public spheres in which differentiated social sectors express their experience and formulate their opinions. The public sphere also enables citizens to expose injustice in state and make the exercise of power by the state more accountable. Through public discussion, agitation, citizens can influence the politics of state and catalyse changes within civil society itself. By encouraging plural associational activity, liberal representative democracy like India can be more participatory, and open diverse modes and axes of political representation.

The formation of collective identities and the simultaneous definition of collective good within the framework of liberal democratic Indian state need to be explained in some detail. At the outset, for the purpose of the argument, the idea of 'state neutrality' can be abandoned by taking the position of Charles Taylor, who has developed some kind of disgruntlement with the 'ultra-liberal' theories. Taylor has argued there are particular rights, duties, and virtues that are inadequately recognized in liberal theories. So Taylor's position is that state neutrality can undermine the social conditions necessary for individual autonomy. Thus a neutral state cannot adequately beget social environment necessary for social determination.²⁶ The state becomes an

²⁵ See no-22, p. 363.

²⁶ See End Note no-7, Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, Clarendon Press, Oxford, 1990, p. 235.

important and proper arena for our vision of the good. Such a vision requires shared enquiry and its institutionalization. Here the good refers to something that can be mutually agreed upon. The liberal democracy model determines the common good through the political and economic processes by which individual preferences are combined into a social choice. Thus in a liberal society, the common good is the result of a process of combining preferences. John Rawls says that though all preferences have equal weight not in the sense that there is an agreed public measure of intrinsic value or satisfaction with respect to which all these conceptions come out equal, but in the sense that they are not evaluated at all from a public standpoint. In a communitarian society, the common good is conceived of as a substantive conception of the good life, which defines the community's way of life. This common good provides a standard by which the people's preferences are evaluated. The community's way of life forms the basis for a public ranking of the conceptions of good, and the weight given to an individual's preferences depends on how much he or she conforms or contributes to this common good.²⁷

A communitarian state can and should encourage people to adopt conceptions of good that conforms to the community's way of life, while discouraging conceptions of the good that conflict with it. A communitarian state is therefore a perfectionist state, since it involves a public ranking of the value of different ways of life. At the same time, communitarian civil society is characterized not simply by the absence of

²⁷ Kymlicka, Will, *Contemporary Political Philosophy: An Introduction*, Clarendon Press, Oxford, 1990, pp.206-207.

state controls, but by the diverse voluntary activities of citizens in improving their community's quality of life. The citizens are engaged continuously in a process of discovering how the values they share can guide their actions, resolve conflicting views they hold on other matters, and evolve a basis for cooperating with other groups. The effectiveness of community action would and can be judged or measured to the extent it enhances citizens' capacities to develop themselves and care for others as equal members in every sphere of shared living.²⁸

Reconstruction of Republican Civil Society

Republican civil society includes (a) a concern with the preservation of private autonomy for the sake of a larger sphere of freedom in those public spaces in which individuals come together non-instrumentally. Republican civil society is a 'third way' between liberal and collectivist understandings of politics. The individual's private matters, but its preservation is not the sole end of politics as in liberalism. Public sphere is artificially constructed and refers to a space in which individuals come together.

Republican civil society requires active citizenship, but not in the sense of explicit calls for high levels of participation, but in the more existential terms of calling individuals out of the deserts of depoliticised mass society to pursue self-rule.²⁹

²⁸ Tam, Henry, *Communitarianism: A New Agenda for Politics and Citizenship*, Macmillan publication, London, 1998, pp. 199-200.

²⁹Ibid.

The way of defining and acquiring some kind of shared negotiation and understanding about how to organize both the society as well as politics takes place at the site of political society wherein groups and associations through formation of communities can articulate both the content as well as the boundaries of what is desirable in a good society. This refers to a site where people in association with others can debate and contest their own versions of the political.³⁰ The state is not just an important domain as is the repository of final power, but it is the site at which codes and canons are invested with sanctity. The state is not only an institution, it is the point at which the contradictions of civil society are condensed.

Social co-operation is needed to maintain, nurture and sustain community relationships or ties. Social co-operation requires an idea of each participant's rational advantage or the good. The idea of good specifies what those who are engaged in co-operation, whether individuals, families or associations, or even nation-states, are trying to achieve, when the scheme is viewed from their own standpoint. Social co-operation thus involves attempts to advance one's own good as well as recognizing the fair terms of co-operation associated with the reasonable which presupposes and subordinates the rational.³¹ The problem crops up at the stage when Rawls says that a continued shared understanding of one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power. If we think of political society as a community united in affirming one and the same

³⁰Chandhoke, Neera, 'The 'civil' and the 'political' in Civil Society' in *Democratisation*, vol.8, no.2 (Summer2001), pp. 19-20.

³¹ Ray, B.N.(ed), *John Rawls and the Agenda of Social Justice*, Anamika Publishers and Distributors (p) Ltd, New Delhi, 2000,p. 56.

comprehensive doctrine, then the oppressive use of state power is necessary for political community.³²

Partha Chatterjee has given emphasis upon community relations and how the liberal democratic institutions have failed to accommodate the notion of collective rights and collective good. This notion of collective action helps even ordinary people to negotiate with the state for protection of rights and recognitions from the state and society as well. This type of negotiations takes place at the site of political society.

The institutionalization of political society is very unclear as there are different agencies working for the notion of 'political' in Indian society and politics. I feel that role of mass media is also important in this domain as it has the democratic potential to rectify the democratic deficit in India. Just as there is a continuing attempt to order these diverse institutions at the domain of political society in the prescribed forms of liberal civil society, there is probably even stronger tendency to strive for what are perceived to be democratic rights and entitlements by violating those institutional norms. The uncertain institutionalization of this domain of political society can be traced to the absence of a sufficiently differentiated and flexible notion of community in the theoretical conception of the modern state. Chatterjee has outlined four defining features of political society in postcolonial democracies, which are as follows.

³² See for details, Charles Kelbley, "Rawls: From Moral to Political theory" in B.N.Ray, (ed) *John Rawls and the Agenda of Social Justice*, Anamika Publishers and Distributors(p) Ltd, New Delhi, 2000, p. 214.

First, many of the mobilizations in political society, which make demands on the state, are founded on a violation of the law. He is taking the example of squatters associations, encroachers of public property, ticketless travellers on public transport, habitual defaulters of civic taxes, unauthorized users of electricity, water, or other public utilities, and such other violators of civic regulations. It is not that they are associations of citizens who merely happen to have violated the law; but the very collective form in which they appear before the state authorities implies that they are not proper citizens as understood by Partha which I have explained earlier in this chapter, but rather they are population groups who survive by sidestepping the law.

Second, even as they appear before the state as violators of the law, they demand governmental welfare as a matter of 'right'. There is a clear transformation that has occurred here from 'traditional' notions of the paternalistic function of the rulers. The rhetoric of rights in the non-western societies is a very recent phenomenon because of the process of the effects of globalization of modern technologies along with the language of democratization.

Thirdly, even as welfare functions are demanded as a right, these rights are seen to be collective rights. They are demanded on behalf of a 'community' even if this community is only the product of a recent coming together through the illegal occupation of a particular piece of public land or the collective illegal consumption of a public utility. Individual rights have no standing when the individuals are known

violators of the law; collective rights can mean something when an older ethic of subsistence is wedded to a new rhetoric of democratization.

Lastly, the agencies of the state and of non-governmental organizations deal with these people not as bodies of citizens belonging to a lawfully constituted civil society, but as population groups deserve welfare. The degree to which they will be so recognized depends on the pressures they exert on state and non-state agencies through their strategic man oeuvres in political society by making connections with other marginal groups, with more dominant groups, with political parties and leaders, etc.³³

So if the axiom of political society is understood in the above manner, then the category cannot be employed in every place and also can not be contextualised in the entire post-colonial societies as any time the political configuration among the political parties may change in a particular region. On top of that we may also evaluate the effects of all these political moves within political society. It also seems to me that political society may also incorporate something against the lawmaking, a tendency of doing this and will raise the issue of converting the illegitimate as legitimate. This will divert other groups properly acknowledged by the state to make vague and unnecessary claims before the state to appropriate more privileges, prerogatives and comforts in the society and body polity. Chatterjee, however, seems to be bit confusing regarding various other modalities which are continuously involved in the

³³ Chatterjee, Partha, "On civil and political society in postcolonial democracies", in Sunil Khilnani and Sudipta Kaviraj,(eds.),*Civil Society: History and Possibilities*, Cambridge University Press,Cambridge,2001,pp. 175-77.

project of defining the political. In this we can also take the example of media groups and also the association of activists as well as intellectuals though sometimes sponsored by the state but inherently against the state. So now the crucial question is where to locate these diverse institutionalized and non-institutionalized associations and groups. At the same time we have to be very cautious about the constant interaction between all these domains and the way the boundaries get blurred. More particularly in postcolonial countries including India, the momentary incoming and going between all these spheres has also conditioned for the ephemerality of the categories employed in postcolonial regimes.

Many cases would prove the fact that the immature associations in the postcolonial societies which are in an embryonic form often go for the issues which will put the members of these associations in a advantageous position. At the same time it should also be recognized that these associations are mostly urban based and sometimes branded as the creation of frustrated, middle class young professionals as the state has become unable to provide a space for employment. So now the success will depend upon the intensity of these movements and how well organised, vibrant and sustained they are. Now we can also discuss about the justification of all community initiatives and to what extent the activation of all this are desirable and feasible in a polity like India. Chatterjee says that though the subalterns may be the victims of state policies they retain some capacity for independent political action since their modes of behaviour and organizations are based on indigenous culture and traditional ways of life although they may also appropriate modern liberatory ideals

like equality and social justice. Subaltern life also remained outside civil society. As the communities have always been a part of life in India especially among the subaltern groups and so collective identities remain powerful and deserve recognition.³⁴

The concept of political society can also be regarded as a failed project on the part of non-western societies as a large section of people have lost their faith upon the discredited, bureaucratic state, though it has some significance in the theoretical scheme to accommodate the political deliberations outside the formal institutions. Chatterjee has not acknowledged the fact that even if in the west there is a tradition of well-developed civil society, yet the encroachment of citizenship rights are also not absent. If we take the example of black Americans and the way they were treated by the state apparatus and also the vigilant civil society founded on the liberatory values, we can easily recognize the fact about the difficulties of realizing citizenship rights. Partha Chatterjee by pinning his faith upon the political society has become engrossed with social transformation rather than being cautious about the deformation and denudation that take place at the site of political society at the same time distorting the domain of political society.

³⁴ Joseph, Sarah, "Society vs. State? Civil Society, Political Society and Non-party Political Process in India", *Economic and Political Weekly*, January 26, 2002, pp. 303-304.

Chapter-Three

Civil Society and Secularism

Chapter-3

Civil Society and Secularism

Secularism is under assault. In recent years the feasibility, desirability as well as the survivability of “secularism” in India is questioned even by its own votaries, not just because it has failed to challenge the resurgence of Hindu nationalism, but also because of the antinomies created out of the various implication of the concept itself. Even people do not hesitate to suspect the Indian state’s commitment to secularism and its accompanied virtues and values. Such a challenge poses the issue of survival of different communities in the civil society in India.

Within the civil society, it is generally assumed that different communities can co-exist, define and beget their own conception of good even though they may not be in consonance with another. They can lead and carry forward their projects complying with rule of law and within the democratic framework. Civil society has to recognise diverse religious identities vis-à-vis the state and provide enough space for their transcendence in the public sphere. The central concern of this chapter is to explore how the debate on secularism involves civil society and how the space of civil society is implicated in the conception of the former. It asks the question why civil society is so important for the idea of secularism.

The constitutiveness of civil society also marks the constitutive feature of secularism and this can be justified on the ground of equal rights. At the level of rights, co-extension of civil society and secularism is possible. The domain of civil society is infused with a substantive measure of universal equality and respect for individual rights.¹ Secularism can be substantiated and justified as it following from the moral concepts of individual rights and the imperatives of ethical civil society.

Contestations on the Conceptual Space of Secularism and their Implications for Civil Society

In this section, we will try to make sense of the constitutional provisions and the meaning they impart to secularism. The concept of secularism encompasses a number of different, though not necessarily incommensurable formulations. It is not plain, simple and unambiguous. Secularism admits diverse connotations and the construction of this project has produced many ambivalences and diverse interpretations.

Indian secularism claims two basic features. The state will not attach itself to any one religion, which would there by establish itself as the state religion; all citizens are granted the freedom of religious belief; the state would ensure equality among religious groups by seeing to it that one group is not favored at the expense of another.

A secular state is not anti-religious but exists and survives only when religion is no longer hegemonic. It admits a more general equality between believers and non-

¹ Acharya, Ashok, Civil society and liberal Norms, *Seminar*.456-august 1997, p. 18.

believers. In a secular state, any type of formal or legal union between religion and the state is not permissible and for the purpose no official status is given to any religion. A secular state secures peace not only between different kind of religious believers but also non-believers as well. It stands by freedom for all religions but also freedom from religion itself.

Secularism is a contested terrain, and it has been subjected to a close scrutiny by a number of intellectuals including Ashis Nandy, Partha Chatterjee and T. N. Madan in search for a non-western and non-modern form of secularism. Some have questioned either secularism itself or the particular secularist policies of past governments. Some defend secularism but criticize its application arguing that Nehru and his followers adopted a top down policy doing little to negotiate with religious people, handling problems with insensitivity. Others criticize government's conformity to public opinion.

The debate on secularism centered the issue of right to religion, confronts the basic issue of differentiating right to the practice of religion as opposed to simply right to religious worship. The condescending character of Indian secularism is very much predictable in the above differentiation. The crisis of Indian secularism is also accompanied recently by the resurgence of Hindu nationalistic forces as well as the consequent alienation of religious minorities.

Secularism is intimately connected with Indian nationalism. Nationalist cultural renewal on democratic, egalitarian lines and under the inspiration of Nehru has been a political formula for long. The progressive impact of the west strove to make Indian intelligentsia secular in outlook, nationalistic in temper and liberal in ideology with their cherished idea of relative autonomy of public and private sphere. Indians have adopted secularism as a progressive political instrument for achieving national integration of a multiple society characterized by socio-historical forces of caste, community and religion that have been regarded as divisive by the nationalists.

The debates on secularism in the Constituent Assembly have brought three different approaches to secularism to the fore front., first, the no-concern theory of secularism that proposes for a definite line of separation between religion and the state. This particular approach claims that religion being an individual's private affair, it must be relegated to the private sphere. Yet this has been criticized by many and Radhakrishnan's speech on the Objectives Resolution on December 13, 1946 asserted that "nationalism, not religion, is the basis of modern life.... the days of religious states are over. These are the days of nationalism". This particular approach led to a conception of a secular state as one that stays way from religion per se. It distances itself from all religions and in this manner encourages their confinement to a private sphere. It is in favour of linking religious activity to religious worship. It persistently removes respect for religion by favouring nationalist citizens. It sees India as engaged in creating a modern nation state and in this enterprise, religion is perceived as an obscurantist and divisive force, with no place. The second approach felt that no links between state and religion

should be permitted because of the possibilities of state demeaning some religion. The third approach known as equal-respect theory entailed that state will respect all religions alike rather than the state staying away from all religions equally.²

The secular state of India has a pre-dated history of showing an attitude of indifference towards religious affirmations as it stressed more on the aspect of nationalism and citizenship. In the enterprise of making India modern, secular state has assiduously replaced the respect for religion with building of nationalist citizens and considered religion as an obscurantist and divisive force that had no place in the formation of the modern state.

The reconstruction of religion in the name of secularism and pseudo-secularism has conditioned the examination and re-examination of the discontents of secularism and secular discourse in India. In this relational sense, the domain of secularism is being assailed by organisations which are engaged in the day- to-day operationalisation of politics, though not all, but by those more particularly like, Shiv Sena, BJP, RSS, and Sangh Parivar which try to monopolise their objectives with the simultaneous repudiation or refutation of other organisations. The Indian state is experiencing a 'crisis of the nation-state' because of its incapacity to co-opt the diverse groups with contradictory claims and together with it a 'crisis of secularism' wherein it is showing its inability to accommodate the various religious groups. It is throwing up a challenge to the Indian states responsibility and mandate to preserve its 'secular character' and credentials.

² Jha, Shefali, "Secularism in the Constituent Assembly Debates, 1946-1950", *Economic and Political Weekly*, July 27, 2002, pp. 3176-3177.

Secularism undoubtedly has been branded by many as in the niche of crisis, as it suffers from these and other related conceptual deficiencies. The question of conceptual deficiency comes in the failure to disentangle the religious from the non-religious. Though the conceptual clarity as well as recovery is significant for the survival of secularism, yet the crisis of secularism can not be overcome by conceptual recovery alone. Any kind of analysis about secularism in India has to take into account the relationship between diverse religious communities in the entire nation. The structure of Indian secularism can not be properly comprehended unless we understand the precise way in which Hindu-Muslim relations have developed in India.³ Indian secularism faces the dilemma of ensuring symmetric political treatment of different religious communities while simultaneously balancing group autonomy with individual equality.

By looking at the prevailing circumstances, secularism in South Asia as a generally shared credo of life is seen as impossible because the great majority of the people of South Asia are in their own eyes active adherents of some religious faith. It is impracticable as a basis for state action either because Buddhism and Islam have been declared state or state-protected religions though in a historical sense⁴ or because the stance of religious neutrality or equidistance is difficult to maintain since religious minorities do not share the majority's view of what this entails for the state. It is impotent as a blueprint for the future because by its very nature it is incapable of

³ Bhargava, Rajeev, "The Secular Imperative", *The Political Science Annual-1997*, New Delhi, p. 59.

⁴ T. N. Madan mean Buddhism in Sri Lanka where it has been accorded higher place in the constitution and about Islam in Pakistan in particular and South Asia in general.

countering religious fundamentalism and fanaticism. Further secularism does not have the adequate resources to fight fundamentalism, because it is secularism that sometime produces and encourages religious fundamentalism.⁵ The relationship between the Hindu majority and the Muslim minority had been spoiled because of the inclusion of religious fanaticism into political affairs by the Muslim league, resulting in the partition of the country, bloodshed and the displacement of millions of people from both communities.

A close reading of an early reflection on secularism by Ved Prakash Luthera , in *'The Secular State and India'* makes it clear that he seems to be a bit pessimistic about the future survival of secular state in India and he arrives at a certain point that India is more of a jurisdictional state or religiously impartial or non-communal or non-denominational state rather than a secular state as the state has to deal with questions relating to doctrinal interpretation, settlement of disputes, administration of religious institutions and the effecting of religious reform. He has been criticized by D. E. Smith in *India as a Secular State* who disagrees with Luthera and argues that Luthera bases his conclusion on too narrow a definition of the state but nevertheless points out the numerous anomalies in the current situation. These two works are considered to be the most comprehensive early statements on the issue of secular state in India.

The idea of a secular state, as enshrined in the preamble of the Indian constitution as a fundamental aspiration, has come under extraordinary attack as a

⁵ Madan, T.N , "Secularism in its Place" in Rajeev Bhargava and Partha Chatterjee (eds.) *Secularism and its Critics*, Oxford University Press, New Delhi, 1998, p.298.

failed experiment, while others have risen to its defense. Even the staunch votaries of secularism have remained silent sometimes attributing their silence to the slippages within the concept itself. Some have attacked secularism as a Western concept inappropriately applied to the Indian state without respect for the profound religiosity of the Indian people. Others have argued that the concept has not been conscientiously applied, but sacrificed instead for political convenience and electoral advantage.

By looking at the crisis of secularism, T. N. Madan has argued that secularism is an alien concept in India and it does not match either the configuration of society or the convictions of the people.⁶ The secular state in India is created on the basis of the assumption that one community or group or party will not be permitted to usurp the rights of another. Secularism was designed to regulate debilitating religious strife and to assure the minorities of their safety and to set at rest any apprehension that the country would align itself with the dominant religion.⁷ The secular state is confronted with the presence of different and sometimes incompatible ways of life that seek in their own different ways to preserve themselves, yet they are expected to permit the state to accommodate differences to retain social cohesion.

Many have seen Secularism as problematic as the meaning has been historically context specific, which can be substantiated by taking into account the example of countries like Turkey and Israel etc. involving socio-historic as well as religious specificities.

⁶ Chandhoke, Neera, *Beyond Secularism: The Rights of Religious Minorities*, Oxford university Press, New Delhi, 1999, p. 43.

⁷ See no-6, p.50.

Secularism is not inimical to civil society rather it is inextricably and symbiotically associated with the ideals of civil society. In this context, a very important question can be posited with regard to the reconstruction of the domain of civil society and how to get legitimacy from the ideals of secularism. The interrelationship between civil society and secularism has not been a subject of major social science discourse. We need to explore this relationship a little further.

Secularism, Modernity and Civil Society

Ashis Nandy has taken the arduous task of differentiating between religion as a faith and religion as an ideology in order to review the model of Indian secularism. He rejects the religion as ideology rather than faith while asserting that modern state prefers to deal with religion as an ideology. He suggests that the premodern and preliberal way of life in India is marked by the conception of religions as tolerant and accommodative faiths or folk ways of life.⁸ He feels that the adoption of secularism in India was aligned to the equally modern concepts of equality and freedom. Nandy feels that secularism is used as an instrument by the modern state to fulfill its immediate objective of justifying and rationalizing its activities.

⁸ Nandy Ashis, "The Politics of Secularism and the Recovery of Religious Tolerance" in Rajeev Bhargava and Partha Chatterjee (ed) *Secularism and its Critics*, Oxford University Press, New Delhi, 1998, p.322. Though Nandy did not use civil society to explain secularism, yet his entire analysis provides enough space for civil society. In his search for premodern and preliberal conception of secularism, different religious communities can negotiate and operate in an accommodative and tolerant manner. The interesting point in his formulation is that this negotiation among communities can only take place in civil society as this zone has been marked by contestation and negotiation which is thoroughly discussed in the first chapter.

When Indian public life becomes non-modern, secularism as an ideology will have a chance for its flourishing. In the name of vocabulary of liberal democracy, it uses secularism to meet its challenge to its ideology and institutions. He is quite vocal in suspecting the modern state and its institutions as it destroys the impulses of civil society but Nandy would like to preserve some of the gains of enlightenment with respect to freedom and dignity but without the modern state. He advocated the revival of traditional cultures by identifying the flawed accelerating character of the project of modernity as dictated by the westernized elite and also middle classes. He is nostalgic for tradition shows that he has no sympathy for the functioning of modern organizations and institutions as they are all seen as agencies of oppression this is one of the reason for which Nandy is critical of Indian secularism as it is used as instrument by the modern state.

Nandy is quite important because in the project of recovering the religious tolerance from the hegemonic discourse of secularism, he in fact gives a space for a construction of civil society with virtue like religious tolerance through the rendition of tradition, which is also the virtue of civil society including fraternity and broadminded goodwill. He has been branded as one of the cultural critic of Indian state because of its power-seeking and homogenizing logic. He argued that western oriented people first look to the state and then adjust their cultural moorings accordingly. (emphasis added) In his article, "*The Political Culture of the Indian Nation State*", demonstrated that the culture of politics has in recent years depended more and more on a mix of Indian high culture

and the metropolitan culture of the nation-state.⁹ He blames the polity for the delegitimation of secularism. The animosity has taken place in the South Asian societies as in these societies religion has got intertwined with the political processes.

While appealing to the believers to keep the public sphere free of religion, the modern nation-state has no means ensuring that the ideologies of secularism, development, and nationalism themselves do not begin to act as faiths intolerant of others. While the modern state builds up pressures on citizens to sacrifice their faith in public, it guarantees no protection to them against the sufferings inflicted by the state in the name of ideology.

Nandy has criticized modern state in a relentless manner by questioning it as the epitome of scientific rationality and the chief secularizing agent. Secularism, one of the major ideological pillar of the modern state, like the other pillars such as development and national security, in stead of leading to greater tolerance of ethnic diversity, state sponsored secularism has often only managed to secularize ethnic conflicts and bring them within the purview of the state. In the process, politics organized around the state has worsened the relationship between communities and ensured, in the name of progress, the destruction of hundreds of lifestyles and the life support systems which traditionally sustained cultural diversity in India. Ashish Nandy notes that 'as India gets modernized, religious violence is increasing', and he

⁹ Nandy, Ashis, "The Political Culture of the Indian State" in, *Daedalus*, Journal of the American Academy of Arts and Sciences, no-18, 1989, p. 9.

expresses admiration for 'traditional ways of life (which) have, over the centuries developed internal principles of tolerance'.¹⁰

Secularism in Constitutional Establishment of India

India avowedly declares to be a secular nation-state as the state in India appears to possess all the features of a secular state. As a secular state, it upholds the principle not to favour any religion, nor does it choose one religion as its official creed. The treatment of all religions equally and creation of a condition for the possibility of all religions to flourish, are the ideals of the Indian vision of secular state and society. However, in the context of many and varied expressions of religious, fundamentalistic and communal tendencies and conflicts, many people are skeptical about secularism in India. Under Article 25, as it reads, "subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion." Along with this, Article 27 reads, "no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination."¹¹ With Article 25 begins a group of provisions which ensure equality of all religions upholding a version of secularism widely favoured in India. The emphasis in this article is on the practice of religious freedom by individuals. The

¹⁰ Sen, Amartya, "Secularism and Its Discontents", in the Kaushik Basu and Sanjay Subrahmanyam (ed), *Unraveling The Nation: Sectarian Conflict and India's Secular Identity*, Penguin Books, New Delhi, 1996, p. 17.

¹¹ For a detailed look at the constitutional provisions on the related articles on Indian secularism, see Articles 25, 27, 28, 29(2) and also the Article 325, which talk about the provision of preparation of electoral roll and without having any ineligibility on the grounds of religion, in *The Constitution of India*, With Selective Comments by P.M. Bakshi, Universal Law Publishing Co. Pvt. Ltd, Delhi, 2002.

emphasis in Article 26 is on the establishment of institutions, but Article 25 may be available even where the practice of religion by individuals is through institutions. Article 27 is also one of the essential consequences of secularism. A tax is a compulsory exaction of money for public purpose. If the state exacts money through a tax whose proceeds are assigned for the benefit of a particular religion, obviously the state favours, patronises and supports that particular religion. The domain of civil society has a correspondence with values like religious freedom, which is reflected in the Indian constitution under Article 25, which upholds the right to profess, practice and propagate religion.

Indian secularism has been confronted or endangered with social forces like Hindu nationalism, Muslim fundamentalism, and Sikh militancy and often secular values have been sandwiched between these three forces. As the domain of civil society has been assigned the task of ordering practical politics, and the way politics is getting operationalised, it has always become a threat to secularism. The problem of crisis of secularism is not confined to the domain of practical politics alone; rather it goes much beyond it affecting the entire civil society spectrum.

A re-examination of habitually accepted priorities as well as reasoning behind them is a must for a better understanding of secularism in India. Secularism, as the refutation of any form of theocratic culture and repugnant to the domination of any church, priest or any form of organized religious authority, entails the supremacy of the democratic state over the existing pre-democratic formations. It also means the

prevalence of laws, processes and administration over loyalties of tribe, clan, sect, caste, religion and language. Because modern state has emerged on the collapse of theocracy, its secular character is exhibited when it remains distant and distinct from religion-dominated politics. Therefore, a secular state, in pursuit of its activities, keeps a respectful distance from all religions and remains vigilant against divisive, separatist and non-democratic politics of religious communalism. In Indian polity, the word 'secularism' emerged during the long freedom struggle. It was the time, when each and every Indian, irrespective of birth, caste, creed or religion, fought for freedom. Their movements were crushed by the British authority without consideration of their religious identities. Therefore, in India, secularism has emerged in our independence struggle, as a complementary value to democracy, civil society and nationalism. After independence, secularism has become part of the new identity of our multi-ethnic, multi-religious and multi-cultural state. While continuing the deep-rooted traditions of a glorious past, India preferred to be a secular state after partition and strengthened its allegiance to the same despite Islamisation of Pakistan. The architects of India wanted to convert a religious-bound society into a modern state where scientific temper and reason would prevail rather than religious planks.

India is undoubtedly one of the most uncompromising places for the establishment of a secular state. In consequence of it, it is difficult to determine to what extent the people of India have truly accepted the ideal of a secular state. Recently, the rise of various religious fundamentalist organisations have made India as the least fertile land for the growth of secularism. In a way it is a religion impregnated

society and religion is the wasp and woof of its very being. Therefore, the working of secularism has not been satisfactory. India tends to define secularism to mean some sort of accommodation and acceptance of multi-communalism. Hence, as experiences have unfortunately shown, in the name of equal respect to all religions and tolerance of all religious communities, what we finally achieve, is reconciliation of multiple communalisms. In practice therefore only uni-communalism is assumed to be against secularism. If only one religious scripture is chanted in public and in political forums, we label it communalism. If, however, all the scriptures are chanted, even on a political platform, or a state function, then we call it as the hallmark of Indian secularism and also an affirmation of our patriotism. This exhibition of public religiosity is recognised as the very ethos of Indian identity, a celebration of genuine Indian fraternity. But experience has shown that such a theosophical, abstract, and moralistic posture can not become a realistic basis of a secular state-craft and rational political integration. At best, it only changes the nature of religious communalism from being malevolent communalism to benevolent communalism. By doing so, it provides a permissive atmosphere for the survival of the politics of communalism and it plays in the hands of anti-secular forces.

Undoubtedly, the present sorry state of Indian polity and society is to a large extent is due to the use of secularism for furthering petty interests by various groups and organisations. Sections of Indian people support Hindu Nationalism because it appears to rectify the apparently disastrous consequences of modernisation and to provide a solution to the atomization, anomie, fragmentation and alienation seen to be

the characteristic marks of the failure of modernity.¹² Actually, the threat to secularism is not coming from the fanatic and the fascist forces among Hindus; rather the real threat to secularism is from within itself and its faulty pronouncements.

Secularism in India should be immune from political interference and should be more than a balancing act between competing communalisms. To promote true secularism, we need to emphasise the need for a civic-secular, rational ideology of political culture and state-craft and to leave the questions of reconciliation of religion and belief patterns to voluntary social action. True secularism can be built on the basis of genuine secular principles. The state should remain neutral and fair, and above either religious accommodation or religious controversy while facilitating for religious accommodation in certain cases.

Secularism, The West, Religion in South Asia and Their Implications for Civil society

Secularism in West

The secular state in the West has evolved out of different types of historical situations and diverse and even conflicting motives lie behind the development of the idea of secularism. In Europe and America, the idea of secularism has emerged as an important aspect of the liberal democratic tradition. Thanks to the rise of Christianity, that produced a new set of relationships, it recognized and taught a basic duality-the

¹² Bhargava Rajeev, "Liberal, Secular Democracy and Explanations of Hindu Nationalism", in *Commonwealth and Comparative Politics*, vol.40, no.3 November2002,p. 11, A Frank Cass Journal.

spiritual and the temporal, each with its appropriate loyalties. The most important theory, the two swords theory, which sought to define the jurisdiction of each was advocated by Pope Gelasius I, which implied the dual organisation of human society- the church to canvas the spiritual interests and to mediate eternal salvation, and the state to maintain peace, order, and justice in temporal affairs, though the papalist and anti-papalist positions eventually differed on their relative priority.¹³ Marsiglio of Padua was one of the influential thinkers to contribute to the idea of secular state who defended the independence of secular rule as good and necessary in itself apart from its sanction by Christianity. In his great work *Defensor Pacis* (1324) he conceived the state as a self-sufficient and omnipotent community, with power to regulate the temporal concerns of the church in the way the state controlled agriculture and trade.¹⁴

The pattern of church-state relations which evolved in the British colonies in America was one which had been transplanted from Europe and this pattern was visible in a twofold manner, a close union of church and state within a colony with limited tolerance for dissenters, combined with considerable religious diversity from one colony to another. As the principle of separation of church and state was underlined as the underlying feature of secular state in the West, numerous factors simultaneously contributed to its realization including the constant revolution by many religious minorities and sects. Along with this, Locke's ideas as well as the rationalism and skepticism of the eighteenth century Enlightenment that came to America from France helped to reduce the dogmatism and fanaticism of religious groups and to

¹³ Smith, Donald Eugene, *India as a Secular State*, Princeton University Press, New Jersey, 1963, p. 9.

¹⁴ *Ibid*, pp. 12-13.

emphasise upon freedom of conscience. James Madison and Thomas Jefferson, with the later as was the first to talk about the idea of wall of separation, where also the prominent leaders in the agitation for separation of church and state in Virginia and their efforts met with full success by 1786 and finally separation was achieved in various states with Massachusetts being the last state to do so in 1833. The church-state separation could co-exist simultaneously with flagrant denials of freedom of religion as was the case in Soviet Russia, which was not a secular state as observed by Smith. But the church-state system can exist simultaneously with broad freedom of religion and a democratic conception of citizenship as in England. Church-state separation in the context of a liberal democratic state is the arrangement which most clearly, logically and effectively preserves the values of the individual and corporate freedom of religion and equal citizenship and church-state separation is the last consequence of the principle of religious liberty and of the neutrality of the state in religious matters.

Secularism as understood as indifference to religion originated in Europe. Though, not secularism ,but the term 'secularization' was first used in 1648 and referred to the transfer of properties of the church to the princes. In England, George Holyoake used the term 'secularism' to refer to the rationalist movement of protest in 1851. In its pursuit of the project of Enlightenment and Progress through the displacement of the mythical and religious world view of the world with the scientific and technological-industrial approach, Europe brought about a separation of the political sphere from the religious sphere. This process referred to as the secularization

or desacralization of the world, signified that sectors of society and culture are removed from the domination of religious institutions and symbols. Thomas Pantham has underlined the few characteristics of secularism, to which the secularism in the West qualifies for. In the West, both secularism and secularization were used synonymously. Those are the separation of religion and politics, the diminution of the role of religion, this-worldly orientation rather than orientation towards the supernatural, the replacement of the “sacred” or “mysterious” conception of the world with the view that the world or society is something that can be rationally manipulated or socially engineered, and a view of religious beliefs and institutions as human constructions and responsibilities rather than as divinely ordained mysteries.¹⁵ In the West, the enterprise of secularism was successful because of its idea of privatization of religion, which was central to the ideology of secularism and also because of certain antecedent developments within Christianity itself as outlined in the last few paragraphs and above.

Religion and Secularism in South Asian Setting

The development of an integrated concept of secularism is a Western phenomenon. Undoubtedly, Secularism has its origin in the West, but South Asian societies and their own versions of secularism is having some sort of compliance with the West, by taking into account their socio-historical specificity. Religions in South Asia are totalizing and encompassing all aspects of life, for that reason separation of religion from politics is just inconceivable, and is alien to society. The kind of

¹⁵ Pantham, Thomas, Indian Secularism and its critics: some reflections. (Special issue: Non-Western Political Thought), published in *The Review of Politics*, Summer 1997 v59 n3 , downloaded from <http://web7.infotrac.galegroup.com> on 26/4/2000.

distinction between the public and private, which has been made, seems to be unworkable in South Asian societies. Misunderstanding secularism is always associated with Indians because they are reminded that secularism in its original version is of Western origin, which means a commitment to a public life fenced off from religion, not an equal weighing up to all religions. 'Indian secularism is unreasonable, insufficient and inconsistent, because it grew out of the peculiar circumstances of anti-colonial nationalism'.¹⁶

Any kind of exploration of linkage between civil society and secularism in India has to be done through signaling religious liberty and citizenship as the defining features of civil society. Delimiting and devaluing the role of religion may amount to the distortion of the domain of civil society, as this is the domain in which individuals collectively deliberate upon and ultimately agree upon something that has a correspondence to their ideals. The rites of religion and outward observances of piety should be in accordance with the public peace and well being. The state is seen as the neutral arbiter of civil society as it has the regulatory function in a Hegelian understanding and within the domain of civil society groups can precipitate and pursue their good life.

The state respects more than one religion, and recognizes and nurtures all religions without preferring one over the other. The secular state may prosecute its subjects for disavowing or disrespecting religion; though not compel them to profess the beliefs of a particular religion. A state that respects multiple establishments treats

¹⁶ Kesavan, Mukul, *The Secular Common Sense*, Penguin Books India, New Delhi, 2001.pp. 5-6

all religions non-preferentially. It gives liberty to each group to conduct its religious affairs but is likely to be indifferent to the freedom of members within the group. In this sense, even though Nehruvian secularism has failed to provide for a creative dialogue between different communities and it can not be attributed to the failure of secularism. Even prior to Independence, the Congress under Nehru refused to let a secular policy emerge through negotiation between different communitarian voices, by denying at every step in the various conferences with the British. Jinnah's demand that the Muslim League represent the Muslims, a Sikh leader represent the Sikhs, and a Harijan leader represents the untouchable community. Congress ever acknowledged that it always represented all the communities.

Nehruvian secularism has this Archimedean existence and in this manner it is unique. This type of existence of Indian secularism gave it procedural priority, but abiding substantive authority and it stayed like a charismatic architect and almost deceased after Nehru's demise.¹⁷ Bilgrami says that Nehru's secularism was an imposition, not in the sense that it was a modern intrusion into an essentially traditionalist religious society, but the society under an evolving democracy through these years has seen religion entering politics in a non-traditionalist and modern political forum. It is an imposition in the sense that it assumed that secularism stood outside the substantive arena of political commitments. It had a constitutional status; and it was even outside of that as it was in the preamble to the constitution. It was not there with Hinduism and Islam as one of the substantive contested political

¹⁷ Bilgrami,, Akeel , "Secularism, Nationalism , and Modernity" in Rajeev Bhargava and Partha Chatterjee (eds.) *Secularism and its Critics*, Oxford University Press, New Delhi, 1998. pp. 397-398.

commitments to be negotiated, as any other contested commitment must be negotiated, one with the other. Bilgrami feels that it is unfeasible to insist upon separation of religion and politics in India with the unique colonial and post-colonial history of communal relationships that were witnessed in India.

So neither the pre-modern conception of an innocent spiritual integration of religion and politics, nor the Nehruvian separation of religion and politics can cope with the demands of Indian political life today. Bilgrami argues that a highly negotiated secularism may have to be adopted and implemented by the State. Indian secularism is *sui generis*. It was already under in crisis at the time of its charismatic architects and now ineffective at the hands of its heirs. Before independence, secularism under a secular party like Congress never got the chance to emerge out of a creative dialogue

Civil society provides a theatre in which the norms of civil society can be debated and negotiated. Unfortunately, Indian secularism did not fit into this category. Indian secularism never got the chance to emerge out of a creative dialogue between different communities. Even within the horizon of Indian National Congress, any conception of a negotiated ideal of secularism was not very much visible. Putting Jinnah and other leaders aside, Congress Muslim leaders like Azad were never given a prominent negotiating voice in a communal dialogue with their Hindu counterparts. The compositeness of the Congress was projected as it was the sole party to represent secular ideals, but it is a fraudulent labeling of anon-existing bridging link between

compositeness of the congress and substantive secularism.¹⁸ Bilgrami sees the failure of secularism in India and expects the dialogue between the communities at the level of civil society.

The state accepts the expression of a variety of religious beliefs and practices as compatible with the functions of the state in preserving its unity and integrity. Secular state is in this sense basically is a form of social polity that makes adjustments possible in a pluralistic society committed to democratic freedoms but where nonetheless religious commitments demand expression that could come into conflict with the unity and integrity of the nation.

The critics of Indian secularism maintain that given the pervasive role of religion in the lives of Indians , secularism , defined as the separation of politics or the state from religion, is an intolerable, alien, modernist imposition on the Indian society. It is a misreading of the Indian constitutional vision , which enjoins the state to be equally tolerant of all religions and which therefore requires the state to steer clear of both theocracy or fundamentalism and the “ wall of separation” model of secularism.¹⁹

As human beings are culture producing creatures, their past becomes a particularly sharp battleground when contemporary debates invoke the past to redefine a collectivity and to allege the centrality of some features and the unimportance of others. When individuals collectively deliberate upon and exercise their freedom in the

¹⁸ Ibid. p. 396.

¹⁹ Pantham, Thomas, Indian Secularism and its critics: some reflections. (Special issue: Non-Western Political Thought), published in *The Review of Politics*, Summer 1997 v59 n3 P. 523.

public sphere, institutions, even the religious ones, are necessary to regulate individual behaviour. So, in this context, religion must be separated from politics for the value of autonomy. Religious and political institutions must be separated, because both are powerful institutions which command individual's unqualified allegiance. Both also have the potential to use force against dissenting individuals or groups.

If, the religious domain and the domain of politics intermix or are identical, then 'they will thwart autonomy more than when they are separate'.²⁰ Ashis Nandy and T.N. Madan understands secularism as a comprehensive rationalist world view that, because of the uncontested irrationality of religion, seeks the reversal of hierarchy between the secular and the religious and eventually the total demise of religion altogether, its ejection from the belief systems of people. But it is a simple fact that religion which is seen as a way of thinking, as the performance of particular practices, and as the institutionalization and organization of these patterns of thought and action is still having influence in Indian society. People adhere to historical and collective memories which again justify their religious adherence which are deeply caught in religion and provide emotional assurance. The version of secularism prevalent in India excluded religion from the political domain so that decisions of the state were guided by rational principles, branded as the 'depoliticisation of religion'. It then permitted the state to actively expunge religion from public life, which was called as 'depublicization'. This process of depoliticization and depublicization of religion has been together called as privatization. 'Political secularism then means the

²⁰ Sharma, Arvind, (ed) *Hinduism and Secularism: After Ayodhya*, Polgrave, New York, 2001. pp. 36-37

privatization of religion that is, the exclusion of religion from the state, but asymmetrically, not the exclusion of state from religion'.²¹

Secularism and the idea of secular state were seriously proposed as a national policy with two specific purposes, first, to combat frenzied communal fissiparous tendencies and secondly, to provide a basis for the development of a socio-political framework for the democratic functioning of the body politic and for the integration of various religious communities into a harmonious society. In intent, at least, Secularism in India was never meant to be the elimination of religion.²² As individuals protected by the right of freedom of expression, freedom of dissent, freedom of association, freedom to form and circulate public opinion, come together in civil society to debate and discuss political and social matters, civil society becomes the arena of political democracy, creating a community which is engaged in participative and deliberative functions and Indian state provide sufficient space for this kind of individual freedom. Religion, not as a set of beliefs, which is variable and not always theological, also integrates the society and regulates individual behaviour. The conflicting claims of religious groups for a place for their institutions in public space and the uneasiness of the state with those claims have conditioned the domain of civil society. But statist institutions have tended to act in an apathetic and indifferent manner in the broad banner of the project of disestablishment of religion from its domain. Indian state is secular in the sense that it accepts the expression of a variety of religious beliefs and practices as compatible with the functions of the state in preserving its unity and

²¹ Bhargava, Rajeev, "What is Indian secularism and What is it for?" *India Review*, vol.1, no.1, January 2002, Frank Cass, London, p. 4.

²² Jhingran, Saral, *Secularism in India: A Reappraisal*, Har-Anand Publications, New Delhi, 1995, p. 5.

integrity. It is also secular in another sense that it is a form of social polity that makes adjustments possible in a pluralistic society committed to democratic freedoms but where religious commitments demand expressions that could come into conflict with the unity and integrity of the nation. The acceptance of the idea of privatization of religion in South Asian context seems to be bit problematic more particularly in India as the country's major religious traditions did not assume any radical antinomy between the sacred and the secular. Secularism in India as peaceful coexistence of different religions and equality of citizenship rights within the domain of civil society will succeed only if the aspects of religious and secular are taken secularly and not in branding the religion as superstition and thus creating a space for religious fanaticism and communal frenzy. Civil society prefigures in such a conception of secularism quite centrally,

Secularism, Community and Civil Society

Communities were viewed as closed collectivities or traditional groupings in which the question of individual choice did not matter. Communities prioritized norms and values of the collectivity over the individual. They were also characterized by a high degree of personal intimacy, emotional depth, moral commitment, social cohesion and continuity in time. Communities are respected because of their intense solidarity and belongingness.

By looking at the assertion of different religious communities in India, Partha Chatterjee advances the argument that conceptually, western secularism and Indian

secularism inhabit entirely autonomous discursive domains. He insists that Indians have their own concept of secularism which is different from the western concept though bearing the same name and this is the reason, it is argued why the western concept can not be applied to the Indian case. The inescapable verdict he gives here is that wall of separation can hardly be applied in India the way it has been done in West.

The cultural and historical realities of Indian situation call for a different relationship between state and civil society rather than what is regarded as normative in western political discourse in matters of religion. According to Chatterjee, the project of the nation-state in India, since its inception, has been implicated in a contradictory movement with regard to the modernist mission of secularization. One part of this nationalist-modernist project was the secularization of the public-political sphere by separating it from religion, while another part was reformist intervention of the state in socio-religious sphere mostly of the Hindus. Describing the contradiction between these two parts of the project of modernist secularization, the interventionist violation by the state, of secularism's principle of the separation of state and religion was justified by the desire to secularize. He notes that the temple-entry reforms or the reform of personal laws of the Hindus, which served the public interest only of the majority religious community rather than of all citizens, can not claim to be based on non-religious grounds of justification. He points out that the enormous powers vested in the Tamil Nadu Government's Commissioner for Hindu Religious Endowments is in contradiction with the secular principle of the separation of state and religion. Another such anomaly or contradiction, he mentions, is the principle of the equality of

religions being compromised by the exclusion of persons professing certain religions from the benefits of positive discrimination given to the scheduled castes. He has identified the anomalies and the internal inconsistency of the nationalist-modernist projects which sought and rationalized the domain of religious discourse and attempted to secularise the public domain of personal law. State intervention was rampant in religious matters and he gives the historical backdrop to the state intervention. Given the dual character of the personal law which is inherited from the colonial period, as religious law recognized and codified as the laws of the state, and in the absence of appropriate institutions of the Hindu religion through which religious reform could be organised and carried out outside the arena of the state, there was no alternative to state intervention in this matter.

The anomalies of the secular state in India are being explicitly explored by Chatterjee when it attempts to initiate a process of rational interpretation of religious doctrine and to find a representative and credible institutional process for the reform of religious practice come into conflict with each other. The use of State legislation to achieve this modernist project comes into clash with another modernist principle of the freedom of religion leading to the crisis of secularism in India. He suggests that the task is to declare the desirability of replacing separate personal laws by a uniform civil code, but proceeding towards this objective in a pragmatic way, respecting the sensitivity of the religious communities about their freedom of religion and going ahead with state-sponsored reforms only when the communities themselves were ready to accept them. Secularism necessarily ensures toleration, but he sees it as

distinctive in the sense that political conception of tolerance will set out practical conditions to be met in order to expect tolerance from others within the domain of the modern state institutions as they now exist in India as a part of non-western form of modernity.²³ By referring to Foucault, he maintains that for a proper relationship between the state and the religious, ethnic and cultural groups, we need to go beyond state sovereignty vs. individual rights within the discourse of liberalism. The specifically modern form of power, which cuts across the liberal divide between the state and civil society, exercises itself through forms of representation and through technologies of governmentality involving the self-disciplining of subjects. This modern form of power is characterized by an immensely flexible braiding of coercion and consent. Under modernity, the religious, ethnic and cultural communities as well as the secular state are to be seen as institutional sites or strategic locations of the politics of identity and difference. The recent shift in the ideological articulation of Hindu nationalism and the championing of secularism is meant not only to deflect accusations of its being anti-secular but also to rationalize in a sophisticated manner, its campaign for intolerant interventions by a modern, positively secular state against the religious, cultural or ethnic minorities in the name of national culture and a homogenized notion of citizenship.

The theory and practice of the secular state can not bring about the toleration of religious, ethnic and cultural differences which are characteristic of India. Chatterjee consciously provides a space for civil society by arguing that if a religious

²³ Chatterjee, Partha, "Secularism and Tolerance" in *Economic and Political Weekly*, July9, 1994, pp. 1769-1774.

community seeks to gain or preserve its autonomy and respect from other groups or even from the state, it must conduct its own affairs through the representative public institutions in so far as those affairs are not confined to simple matters of innocent beliefs or holy rituals. Those affairs or practices of any religious group which have a regulative power over its members must rest on the publicly secured consent of those members.

Notions of Secularism and Civil Society

Rajeev Bhargava sees the crisis of secularism in India as the crisis of a particular version of the same. He terms the two predominant versions as ethical and political secularism. Ethical secularism justifies the separation of religion from politics either by excluding from politics all ultimate ideals or by an appeal to the principle of political neutrality. To secure an ordinary life, to protect basic this-worldly goods, all ultimate ideals must be expunged from the affairs of the state whose sole business is to procure for everyone minimum standards of decent living.²⁴ Political secularism, on the other hand, need not be hostile to ultimate ideals. It proposes that we lodge them in the proper place not that we forsake them altogether. Though it seeks exclusion, it need not do so indiscriminately. All ultimate ideals need not even be excluded from politics and within the public world; it distinguishes the coercive from the non-coercive. All it demands is the exclusion of some ultimate ideals from the coercive public sphere, namely the state.

²⁴ For ultimate ideals, See Rajeev Bhargava's "Giving Secularism Its Due" in *Economic and Political Weekly*, July 9, 1994, pp. 1785-1786. The ultimate ideals involve qualitative distinctions of worth, necessitating a contrast between what is valuable and what is demeaning, lowly. Competing ultimate ideals, it follows, will have incompatible ideals of what is worthy and unworthy. Moreover, what is of ultimate worth for one is demeaning for the other and vice versa. A clash of such ideals has the potential of depriving people of leading even a minimally decent existence, and ordinary life, which was really emphasized by Bhargava.

Within the domain of civil society, this coercion of the state can be monitored and checked. Political secularism is non-communitarian in character.

Ethical secularism seeks the separation of religion from politics by virtue of the contribution it makes to the realization of some ultimate ideal. It also requires that the believer give up everything of significance, whereas political secularism demands only that everyone- believers and non-believers- give up a little bit what is of exclusive importance in order to sustain that which is generally valuable. Bhargava has argued that the pluralist version of ethical secularism, which is both a secular and communitarian, is worth exploring and enriching. It is superior to political secularism though the level and quality of motivation that it requires is not easy to obtain. Ethical secularism is better but difficult, political secularism is somewhat less attractive, but well within one's reach. Rajeev Bhargava, however does not take adequate cognizance of the power of religious insinuation.

A major goal of secularism is to protect the state from instabilities associated with religious controversy. Undoubtedly; secularism has become an inviting theory around which to organize religion-state relationship because it claims to minimize the divisiveness inherent in the pluralism of contemporary society.

Theorists of secularism have argued that religious groups will use government as an arena for struggle, in which each seeks official endorsement for its own brand of religious orthodoxy. The secular state needs to stand aloof from religious controversy

and should not enter into disputes over religious dogma, avoid intrusion in the internal affairs of religious groups and avoid any demonstration of partiality toward one sectarian group or another. Another major goal of secularism is to secure religious freedom for persons of faith and official tolerance for those without, positions which are now counted as constituting basic human rights. Religious belief and practice lend meaning to some peoples' lives and, thus, have value as forms of self-expression and modes for the exploration of existence.

The hero of civil society theorists of the West was the individual and his quest for equality. This was based on the assumption that nation-states are homogenized entities constituted by free-floating and autonomous individuals. In heterogeneous and hierarchical societies such as India, organized groups and communities should also be recognized as legitimate inhabitants of civil society, in addition to individuals. Civil society in India needs to be seen as a fluid association of social groupings which are based on caste, kinship linkages, religious affinity as much as voluntary social associations.²⁵

As a matter of public policy, the secular state does not dictate terms of individual belief, which pertains to the private sphere. Individuals should be free to adopt whatever faith they choose, to preach their religion in public, and to practice openly within the limits of public morality and order. Religion must be separated from politics, not because of the inherent deficiencies of religion, but because of the

²⁵ Chandhoke, Neera. *State and Civil society: Explorations in political theory*. Sage publication, New Delhi, 1995, p. 28.

coercive character of the state, which may try to hoodwink people in the name of religion. Ordinary life requires that an acceptable standard of human interactions exist and it is barbaric to fall below it. Some procedures of inter-personal conduct are required to prevent the social system from falling apart. So, high religious ideals must be separated from politics, the principal end of which must be to maintain some procedures of inter-personal conduct so that everyone is able to at least live in an ordinary existence. The separation of religion from politics is required in order to avert unbearable suffering and degradation of life.²⁶ Scholars like Bhargava believe that religious pluralism strengthens the state by providing alternative life models from which citizens can choose, and enriches public policy debate by bringing to bear diverse perspectives on morality and justice. The secular state may draw substantial benefits by fostering a rich cultural and public life marked by diversity within a system of managed conflict.

Even though the secular state allows religious groups to manage their own affairs, proclaim their doctrines, and practices their faith with a minimum of interference, on occasion the demands of religion and the state conflict, as in the case of religiously-based conscientious objection to military service. Under such circumstances, secularism requires that the state enforce neutral rules which are adopted and applied through procedures which are themselves as even-handed as possible. These rules should be stated as broad constitutional, statutory, or judicial principles which are applied evenly to all groups. They establish the conditions under

²⁶ Bhargava, Rajeev, "Giving Secularism Its Due", *Economic and Political Weekly*, July 9, 1994, pp. 1784-1785.

which religious exceptions to general-purpose rules may be made, if at all and when they may not.

In this way, conflict between religion and the state is managed so that it does not appear that the state is aligned with one religious group in opposition to others. All are subject to the same rules and the same processes, operating within a broader framework of religious freedom. In this perspective, secularism seeks to protect religion from debasement by the state. Religion is relegated to the private sphere as there is a need to protect it and not to marginalize it.²⁷ Religion lends the appearance of legitimacy to government and its actions, and as such religious associations are often sought by political leaders to improve their standing or that of their party. In this way, politicians manage to adapt religion to their own needs and may distort and misuse it, offending those who believe. Bhargava feels that Secularism as a theory for the organization of the state offers potential incentives which are extraordinarily attractive, both to government and to the individual citizens. Secularism shows the state how to remove itself from the hazardous terrain of religious dispute, and thus reducing the likelihood of political instability. It also puts strong emphasis on human rights by requiring the state to respect individual and sectarian autonomy in the religious sphere.

²⁷ At the levels of social control other than the formal operation of law, there has been an increasing recognition that morals including the religious are private matters. The expose of religious disposition is also in that sense limited and subject to broadly categorized good of the entire community. See for details, *Religion In A Secular Society*, by Bryan R. Wilson , Penguin Books,1966,p. 84.

In the diverse positions embraced on secularism, civil society sometimes covertly and at other times overtly is presupposed. In a way civil society remains the prior condition for any notion of secularism to become viable in India.

Chapter-Four

Civil Society and Citizenship

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Civil Society and Citizenship

In recent years, almost all the countries across the world have seen some sort of resurgence of citizenship focus. More particularly the debate has again come to have a bearing on the understanding of Indian democracy as one of the important political parties, the Bharatiya Janata Party, has challenged the citizenship status of the head of the Congress Party.

India adopted the idea of single citizenship by realizing the complexities and organizational difficulties faced in a very large yet loosely tied heterogeneous society. Integration and unity of the nation had been the paramount concerns at the point of formulating the Indian constitution. India, as a democratic country, generally strove, to accommodate people within its territory and sought to legitimize its power on that basis. The democratic age, with its demands for consensus, poses new challenges and obstacles to co-existence because it opens new set of issues concerning the political identity of the state. In India, Hindus and Muslims coexisted in conditions of civility, and even with a certain degree of syncretism earlier, whereas sections of them came to fight bitterly in the name of each other's communities. The explanations given for this include the British attempt to divide and rule, or even the British mania for census figures, which first made an issue of who was a majority where.

Citizenship makes a nation-state full-fledged and complete. Citizenship authorizes and legitimizes the exercise of power through the means of political rights like the right to vote. It constitutes a political identity as well as a juridical status which confers equal rights and duties in the public sphere on citizens. Citizenship cannot be seen as only a legal-political status in the public sphere but also involves active participation in civic activities in civil society. Though in India, citizenship as formal-legal membership of the political community has been accorded, yet it has not yielded the result of throwing up substantial citizenship with constant and reactivation of civic virtues. This is where I look for the space for civil society to cultivate a kind of culture which would promote and encourage civic virtues which are considered to be the conditions for flourishing of substantial citizenship through expansion and inclusion of diverse claims.

In India, the emphasis has been given more on fundamental rights, which make the individual to get the benefits of the state as a passive citizen, not necessarily as an active citizen which in fact covers the simultaneous performance of some obligations through the prism of fundamental duties. Apart from all these anomalies, Indian constitution has some novelty as it was destined for the differential model of citizenship from the very beginning. No one was debarred from being a citizen on grounds of caste, class, color and religion, and more particularly caste as one of the significant grounds. On account of it, citizenship was not confined to the universal or common category in the sense that it pertains to all citizens and in all relevant respects, rather it was really differentiated by taking into account the disabilities and kinds of discrimination within the framework of diversified liberal democratic state caught in hierarchical and

inegalitarian social structures. For the coming of this kind of conducive atmosphere for the differential citizenship, Ambedkar is being credited as he was pleading for the differential citizenship from the very beginning particularly on behalf of the disadvantaged sections of the society but he was visualizing for its accomplishment through the model of a strong state. Right to culture is an established feature of citizenship as it has been acknowledged by many and this along with the idea of basic liberty in the vicinity of citizenship should not be compromised.

Citizenship has both horizontal and vertical dimensions. The horizontal aspects see the positive identification of citizens with each other as valued members of the same civic community. Here citizenship reinforces empathy and sustains solidarity by means of official statements of who is “one of us”. Citizenship, therefore, is a linking mechanism which binds the citizens with other citizens. The vertical aspect links individuals to the state by reinforcing the idea that it is “their” state and that they are full members of an ongoing association that is expected to survive passing generations. Their relation to state is not narrowly instrumental, but supported by a reservoir of loyalty and patriotism that gives legitimacy to the state.

The traditional model of ‘citizenship-as-rights’ has been challenged from the civic-virtue and cultural pluralism ground. Citizenship-as-rights is often called as passive or private citizenship and it also refers to the absence of any obligation to participate in public life and it is till today appreciated and widely supported by many because of its

attitude to rights rather than responsibilities or participation and this is considered as the right to have rights.

Marshall's theory of social citizenship suggests two propositions, first, a common sense of community is a necessary condition for the emergence of social citizenship rights, and secondly, social citizenship also reinforces the sense of a common community and serves as an instrument of social integration in divided societies. Citizenship has a tendency towards equality. His theory of citizenship rights has been divided into three categories in three successive phases: civil rights, which arose in the eighteenth century; political rights, which arose in the nineteenth century; and social rights-e.g. to public education, health care, unemployment insurance and old-age pension- which have been established in the twentieth century. With the expansion of rights of citizenship, there has also been an expansion of the class of citizens. Civil and political rights that had been restricted to white-property-owning Protestant men were gradually extended to women, the working class, Jews and Catholics, blacks and other previously excluded groups. The fullest expression of citizenship required the emergence of a liberal-democratic welfare state. By guaranteeing civil, political, and social rights to all, the welfare state ensures that every member of society feels like a full member of society, able to participate in and enjoy the common life of society. If any of these rights were to be violated, then people would be marginalized and would not be able to participate.

The idea of citizenship found expression in the Indian constitution reflecting the rich debate that was very much there before the adoption of the constitution of India. In

the constituent Assembly debate, citizenship was seen not merely as embodying equal rights and obligations but as differentiated, which in fact prompted the constitution makers to identify certain groups and communities to deserve different and special treatment. The idea of citizenship demands three pre conditions, namely, (a) that each member of society be treated as 'an end in himself and never as a means only'; (b) that certain basic rights and capacities be available to all members of society; (c) that positions of respect and responsibility be open to every member of society irrespective of birth or social antecedents.

Citizenship Framework: Universal and Differentiated

The notion of universal citizenship presupposes that individuals are citizens of the state and legal sanction is the basis of this type of citizenship. So, in this manner, it speaks of only national citizenship and recognises only one membership; that is the membership of the state. In this manner, it dismisses all other affiliations and loyalties of the individual. In this framework, communities do not have any recognised standing within it. The ideal of universal citizenship assumes the presence of a homogeneous public without paying any heed to the communities and their loyalties and affiliations. The framework of universal citizenship ignores considerations of minority rights as advocated by multiculturalists.

The differentiated citizenship implies that people should be included not merely as citizens but also as members of communities and that diverse category of citizens be brought into the state by extending special or different rights to them. The differential

model of citizenship acknowledges the multiple and even the overlapping identities of the individual as well as the communities. The identity of a person as a citizen is only one of the many identities. The presence of these other community identities does not weaken or threaten his or her identity as a citizen. The identity of a person as a citizen is only one of the many identities.

Community, Citizenship and the Nation-State

Liberal democratic states usually think of one way of citizenship to bring inclusion in their respective territories. These models of states believe that all citizens within a particular definite territory are considered as citizens. Apart from the national citizenship, the state remains neutral to the various other cultural affiliations of the people. Though the state acknowledges the diversity and plurality of cultures and beliefs within the state, yet it does not take into account the case of differentiated citizenship, within which, citizenship is articulated in a special manner by treating, protecting and defending minority cultures. Here, differentiated citizenship has been understood as treating people both as citizens as well as members of communities. If this is followed, then diverse categories of citizens are brought into the state by extending special or different rights to them.

The issue of special treatment to various communities has come up when the liberal democracy has treated citizens equally and in an identical manner. This has been done to achieve equality at the expense of dethronement of various communities. The way, liberal democratic state has treated various communities and individuals as citizens

has given rise to at least three anomalies and this has been taken up by Gurpreet Mahajan seriously. She says this idea of liberal citizenship (1) acknowledges commonalities only at the level of the state; (2) assumes the existence of a homogenous public;(3) mandates identical treatment for all. In all, these three elements have resulted in the marginalization of some communities within the nation-state.

Communitarians like Taylor and Walzer claim that the liberal emphasis on individual rights and corresponding contractual obligations provide neither an adequate understanding of citizenship nor a full sense of the potential of democracy. They claim that individuals do not exist independently of the society and culture within which they acquire their values, beliefs and perceptions of the social world and they criticize the excessive individualism which they see as implicit in classical liberal ideology. They also repudiate theories which conceptualize politics as a type of market place in which voters and leaders are represented simply as buyers and sellers. As a category, citizenship can negotiate between liberal individualism and communitarianism. The task is therefore to transcend the opposition between the liberal individualism and communitarianism and to integrate the demands of liberal justice and communitarian membership through the category of citizenship. Citizenship is intimately linked to the liberal ideas of individual rights and entitlements on the one hand and to the communitarian ideas of membership in and attachment to a particular community on the other.¹

¹ Kymlicka, Will, *Contemporary Political Philosophy: An Introduction*, Oxford University Press, New York, 2002, p. 284.

This chapter presumes that civil society as the foundation of democratic citizenship seeks to establish or strengthen democratic political culture through voluntary institutions.

Citizenship and the Public Sphere

In the last few decades, there has been a large-scale demand for active citizenship rather than simply consider citizens as the recipients of passive entitlements because of resurgence of nationalist sentiments, the asymmetry created by multi-cultural and ultra-liberal framework, the failure of environmental policies that rely on voluntary citizen cooperation, dissatisfaction with globalization and the perceived loss of national sovereignty etc.

Hannah Arendt has attempted to articulate the question of citizenship around the constitution of public spaces of action and political deliberation. Here, public sphere refers to that sphere of appearance where citizens interact through the medium of speech and persuasion, disclose their unique identities, and decide through collective deliberation about matters of common concern. This public sphere of appearance can be established only if we share a common world of humanly created artifacts, institutions and settings, which separate us from nature and provide a relatively permanent or durable context for our activities. The construction of public spaces of action and political discourse depends upon the existence of a common, shared world, and upon the creation of numerous spheres of appearance in which individuals can disclose their identities and establish relations of reciprocity and solidarity.

Engagement with Citizenship, Gender and Civil Society

Feminist scholarship has revealed how citizenship has been male in theory and practice. The gendered private-public dichotomy has contributed to women's admission to citizenship on male terms and also to the way this has generally been ignored by theorists of citizenship.

Citizenship in a communitarian tone is under criticism as the reification of community identity has every chance of overlapping the individual identity as such even though it has been said that the individual identities are shaped and contextualized through shared memories, values and institutions as well as practices. But this view has been criticized by feminists as they believe that rights like autonomy, selfhood, and access to resources etc. projected by communities and the state are denied by communities to 'their' women. They believe that the discriminatory provisions of personal laws are based on the same logic of exclusion that characterize the creation of a nation and should be questioned on basis of the same logic.²

Over the last decade, a consensus has emerged among feminists and democratic forces that the campaign must be conducted at three levels, (1) support for and initiation of attempts to bring about reform within personal laws, (2) bringing about legislation in areas which are not covered by either secular or personal laws-such as domestic violence and the right to matrimonial home- thus avoiding a direct confrontation with communities and with communal politics and (3) working on setting up a comprehensive

² Menon, Nivedita, "Women and Citizenship" in Partha Chatterjee (ed.) *Wages Of Freedom: Fifty Years of the Indian Nation-State*, Oxford University Press, New Delhi, 1998, p. 249.

gender-just framework of rights covering not just areas already covered by personal laws, but also the 'public' domain of work (crèches, equal wages, maternity benefits etc.), which should be available to all citizens. Where these laws do not conflict with personal laws, they should be automatically applicable, and where they do not conflict, it should be open to individual citizens to make their choice.

Feminists prioritise the notion of the rights of women as citizens by considering rights as universal, inalienable and invested in the individual. When feminists hold that reform within personal laws with the co-operation of community leaders is preferable to legislation by the state, they are not really asserting the rights of communities; rather it is an attempt to negotiate to the maximum extent possible space for women as individuals within their communities. Nivedita Menon has questioned Chatterjee's position for his inability to comprehend the gendered nature of difference, which is claimed by various women's movements as well as feminist organizations. The basic premise upon which Menon targeted Partha Chatterjee is that Chatterjee has claimed that the assertion of minorities through the demand of collective cultural rights has been seen as the right not to offer a reason for being different rather the group or community explains that in their own chosen and constructed manner to strengthen the inherently authoritarian tendency of minority groups and also to threaten the sovereignty of the state. Menon to justify her position is taking up the issue of Uniform Civil Code and says that the way rituals in cultural practices are implicated in the notions of the 'self', has come to be constituted as male. In the framework of male-dominated and patriarchal societies like India, minority religious communities, on the one hand, are asserting their difference from the public

sphere defined by the constitution, wherein the citizen is devoid of all distinguishing and different marks including religion and sex and on the other, from other communities, who mark their maleness differently. In India, the very selfhood of religious communities as they have come to be constituted is contingent upon marking their difference as male in the inner realm and any challenge to it is seen as threatening their very existence as communities.³ The exhibition of resentment by the various women movements in India can be attributed for the rethinking and renegotiation of Uniform Civil Code as the dominant discourse on Indian nation-state that has defined and constituted the Indian nation-state in such a manner that the powerless and the marginal were being defined out of its boundaries as they do not fit into the existing way of defining the nation.. This was the basic reason feminists have delinked the national integrity argument from the gender justice argument. They have claimed that the shift has taken place in terms of codifying rather than reforming Hindu Personal Laws, which in fact has put an end to the liberal provisions within Hinduism in various parts of the country.

Another shift has also taken place in terms of changing the stand of women's movements in India whether to go with the state or to raise voices against the state. Sometimes these movements have collaborated with the state while in other instances they have gone against the state on various issues. But all these different voices have explicitly or implicitly prioritize the notion of women as individual citizens invested with inalienable rights and this is seen as an attempt to negotiate maximum space for women as individuals within their communities. There has to be some battlefield on the basis of which groups can negotiate on the issue of gender. This battlefield can be best grounded,

³ Ibid, pp. .250-251.

nourished in the civil society through which the assertion of heterogeneity and the citizenship rights for women can be foregrounded. The space of civil society is pertinent for the purpose and it also allows for the negotiation and re-engagement with the state with the simultaneous enlargement of women's rights. Feminists have argued that re-gendering of citizenship requires a change in public and private spheres to enable both women and men to combine paid work and caring responsibilities in civil society.

In India, another crucial aspect of citizenship that has recently gained momentum is the citizenship rights of eunuchs, who have been elected from various regions of North-India. Though they have been recently empowered to contest in the elections and democratic practices as well, yet Indian state is confronted with the aspect of gender while granting citizenship rights, which means, whether they should be considered as male or female. In most of the cases, they have been branded as female, which becomes a significant ground on the part of feminists to criticize the present politics as male chauvinistic.

The idea of emancipatory potential of citizenship can be questioned in India as various categories of people have been excluded from the values of citizenship and this can be justified more by taking the example of rights of the displaced in the Hirakud Dam in Orissa and the people's rights in Narmada Bachao Andolan, and in this regard various movements and civil society organizations try to spearhead people's cause through civil society. Such positions on citizenship issue challenge the equality principle within citizenship theory and say that treating unequals equally is unjust. Such attempts of

demanding treatment of unequals as equals can be best realized within the domain of civil society.

Democratic Citizenship and Civil Society

The issue of democratic citizenship is crucial for India because the institutions of substantive democracy have been weakly articulated in India.⁴ There is a common and commensurate relationship between citizens and the state. The state has the legitimate capacity to exercise tremendous power over its citizens and the state is held responsible to the body of citizens through practices of democratic accountability. The modern form of governance has clearly dismantled the single and undisputed notion of the state; rather it has led to the Pluralisation of the state. As the citizens within the polity are endowed with rights, they can act as a restraint upon the powers of the state. These citizenship rights acquire a political edge and political clout in two circumstances; one, when individuals articulate and assert their rights in the form of claims upon the polity and two, when democratic states recognise these rights and grant their status in the form of rule of law and the states uphold these rights against other notions of individual-state relations and the judiciary also defends these rights against violations. Another paradox of modern democracy is rather interesting for the political theory of individual rights. Though individual rights bind the state, it is precisely the state that recognises these rights as moral constraints; it is this state which translates these rights into legal norms, and it is the state which upholds these rights through the constitution and the judiciary. Through a series of bridging movements, the state connects the possession of rights and the

⁴ Chandhoke, Neera, "Governance and the Pluralisation of the State: Implications for Democratic Citizenship", *Economic and Political weekly*, July 12, 2003, p. 2957.

actualization of rights.⁵ As the polity becomes more democratic, the private arena gets re-constituted in a way that the public permeates it without eclipsing the space for the expression of individual difference and creativity. What is significant is that the sphere of the public and private are continuously re-articulated in a manner that the two reinforce each other.⁶

Menon has problematised this issue in a more convincing manner by providing a critique of the language of rights and the discourse of law within the broad spectrum of citizenship. On the one hand, a social movement operating in the realm of law is constrained to use the language of rights because legal discourse is animated by the weighing of competing rights. In other words, to enter into the realm of law, rights-talk becomes obligatory. On the other hand, when a social movement makes claims based on rights, at some level these claims are predicated on the assumption that these rights should be protected by law. But the unproblematic relationship between the discourse of rights and those of law are constitutive of citizenship. Legal discourse functions on the assumption of certainty and exactitude, through the creation of uniform categories out of a multiplicity of identities and meanings. Appeals to law are made on the assumption that rights are self-evident, universally comprehended and universally applicable. However, an examination of rights-claims invariably reveals that they are based on the assumption of shared moral boundaries, or shared notions of equality, justice and so on. Rights-claims derive their meaning and value only within their specific universes. While the law demands universally applicable principles, rights which are used to enter the arena of the

⁵ Ibid, p. 2958.

⁶ Mahajan Gurpreet, *The Public and the Private: Issues of Democratic Citizenship*, Sage publications, New Delhi, 2003, p. 11.

law, are constituted differently by different discourses. When difference theories of rights figure rights through an alternative morality, they invoke not just universal values, but what is assumed should be universal values or democratic values. The uniqueness of rights is always at odds with law. At particular historical moments, justice is constituted by a plurality of moral visions, but the discourse of law must fix the meaning in determinate ways. The meaning delivered by legal discourse as the just one then gets articulated in complex ways with other discourses constituting identity, and tends to sediment dominant and oppressive possibilities rather than marginal and emancipatory ones. So the enterprise of securing justice as a universal value once and for all through the category of the citizen invested with universal and inalienable rights may be misdirected.

Differential Citizenship, Indian Constitution and Civil Society

The constituent assembly debates largely centered on the concept of a 'people' who would be the motivating force behind all the decisions. The people were deemed to be the citizens of India who would enjoy full political and civil rights, while depriving aliens of having an access to these. The same was anchored in the speech of Dr B. R. Ambedkar:

All persons born in India, as defined in the General Clauses Act and who are residing in the union and subject to the jurisdiction of the union shall be citizens of the union. Without this clause, large number of people will be denationalized. They will have no nationality at all.

-(Dr B. R. Ambedkar, Constituent Assembly Debates, vol. Iii, 2nd May 1947).

The concerns of civil society can not be oblivious to the imperatives of difference and discrimination, if it were to be so, then the basis of realizing and keeping the humane treatment of people would be destroyed by the structures of the society itself. Ambedkar's project envisioned the removal of untouchability and with it the undermining of the caste system in public life, and along with this, it was also about creating assets among those who have none. He provides room for citizenship of the disadvantaged sections within this framework. Ambedkar constructed a different mode of nationalism and citizenship by guaranteeing citizenship to the depressed classes of the society on the grounds of differential mode of citizenship. He considered annihilation of caste is central to his discourse throughout his struggle against colonialism. He set an agenda of reservation both in the educational sphere and in the bureaucracy to the Dalit bahunians in running the state institutions. As the Brahminical civil society has already encroached upon the citizenship of depressed classes, he was pleading for these classes and their citizenship issue by destabilizing Hinduism. Ambedkar's vision has been sidelined by the present mode of operationalisation of Indian politics as caste has been used as a permanent political resource by the parties which have yielded for the fraction among the citizens.

Ambedkar has defined citizenship in the Constituent assembly in following words, "The Indian constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is Indian citizenship. There is no state citizenship. Every Indian has the same rights of citizenship, no matter in what state he resides." Indian constitution of course recognised equality of citizenship by taking into

cognizance a wide variety of disadvantages and differences.⁷ But he had something in his mind regarding caste as a category. He thought that eventually caste would cease to make any difference in public life and for this reason he had urged that reservation policy will be periodically reviewed as the differential treatment to individuals would instigate a tendency to defend inequity.

Articulating Citizenship in India

In India, education, work and protection need to be developed if inclusive communities are to be established and sustained. The development in question requires a structure for co-operative enquiry and practical support to carry out informed deliberations. Citizens need to be able to come together to shape decisions on what is to be taught, how production is to be organized and where the minimum standards are to be set for their common protection. In India, there has been a quantitative enlargement of citizenship without much qualitative advance. With the adoption of a republican constitution, the subjects were transformed into citizens.⁸ While all Indians are in a purely formal sense citizens under its constitution, the public in any politically meaningful sense of the term is highly restricted. The disabilities of subject-hood have been removed, but the abilities essential for effective citizenship have not been created. Indian model of citizenship is *sui generis* in a sense that the accomplishment of citizenship as a value in itself has been an immediate enterprise where as in the West it

⁷ Paper presented by Prof. Valerian Rodrigues, 'Citizenship and Group differentiated Rights in the Indian Constitution' in a International Seminar on "Multiculturalism in India and Europe" on 6-7 November 2003, p. 13.

⁸ Beteille Andre, "The Public as a Social Category", in Mahajan Gurpreet, *The Public and the Private: Issues of Democratic Citizenship*, Sage publications, new Delhi, 2003, p. 50.

has taken hundreds of years through constant struggle. The enlargement of citizenship can be understood in two ways. First, hitherto excluded sections of society are granted citizenship which in that sense becomes more inclusive. In a purely formal sense, the extension of the universal adult franchise provided citizenship to all irrespective of diverse anomalies amongst the individuals on grounds of gender, race and property. At first citizens were drawn from a small and exclusive section of society and from the democratic point of view it was this section that constituted the political public. In the 19th century America, women and blacks did not form a part of the political public. As the franchise became extended in the 20th century, citizenship became enlarged and the public more inclusive. Indian civil society has an important role to play in relation to identifying the conflicting claims about rights as well as highlighting the contradictions among them.

Social Movements and Citizenship

Social movements constitute the dynamic element in processes that will realize the positive potentials of the modern civil societies including India. At the same time, civil society also becomes the indispensable terrain in which social actors assemble, organize and mobilize their targets. Social movements do not target the state rather they express confrontations between social and civil adversaries within and over the institutions of the civil society. Civil society is seen in action terms as the domain of struggles, public spaces, and political processes. It comprises the social realm in which the creation of norms, identities, institutions and social relations of domination and resistance are located.

Social movements are oriented towards social change through modification of the expectations and mores which influence social relationships. While social movements may advance the development of citizenship, citizenship rights facilitate the emergence of social movements. The development of citizenship has two analytically distinct relationships; there is the inclusion of new categories of persons into existing citizenship rights, and therefore there is the advent of new types of rights in citizenship, the creation of new components or elements of citizenship. These different processes may historically occur together, although they need not. While an expansion of the numbers of citizens seldom in itself leads to changes in the structure of citizenship, the creation of new types of citizenship rights frequently inducts previously excluded sections of the population into a national community, as when the nineteenth century creation of political citizenship brought sections of the working class into the operation of European societies for the first time. It is important to stress that these distinct aspects of the development of citizenship entail rather different sociological processes and draw upon different aspects, indeed, different understandings of social movements. There is a logic of citizenship which suggests that once civil rights are achieved other types of citizenship rights emerge in due course. Social movements are inevitably movements about the rights of citizenship as their demands are much more inclusive than class-specific demands.

The theory of citizenship provides a means to understand the solidarity that holds societies together. Citizenship presumes some determinate community or civil society with some connections and networks between people and groups, and some norms and values that provide meaning to their lives. Citizenship could conceivably work in a mass

society of individual choice without civil society and intermediate groups, but that society has never existed. If it did, it would be inherently unstable. In India, the state is under serious attack and subject to suspicion both from rights-based movements as well as participatory models of democracy. While the social movements in India seek to enhance the space for individual liberty by limiting the actions of the state, the participatory models of democracy see voluntary citizens groups of various kinds as articulators of the public. The majoritarianism in India has been weakened as a vast number of people in the public sphere are able to participate and deliberate upon by demanding their claims, more particularly, if we see the assertion of groups in India to include the environmental rights and the right to public interest litigation which are considered to be the victories of citizenship rights groups. This would not have occurred if civil society and the public sphere were to be limited to majoritarianism. In India, the issues raised by the women's movement, environmental movements, peace and local autonomy movements are all connected to the shifting boundaries between public, private and social life and involve struggles against the forms of domination in these areas. In India, social movements routinize and discipline state power.

Secularism, Citizenship and Indian Constitution

Citizenship as the constituent of secularism has been already mentioned in the last chapter. The concept of citizenship as the component of secularism is based on the idea that the individual, and not the group, is the basic unit.⁹ The individual is confronted by the state which imposes duties and responsibilities upon him and in return the state

⁹ Smith, Donald Eugene, *India as a Secular State*, Princeton University Press, New Jersey, 1963, p. 115.

guarantees rights and grants privileges to the individual. Secularism in India represents the belief that individuals must not be discriminated against on grounds of their religious identity and that the minimum rights of citizenship must be granted to all people irrespective of their religion. Gurpreet Mahajan by giving the reverse argument says that though the individual is the basic unit, yet Indian constitution has granted religious freedom not just as an individual right but to religious communities as well. The community was expected to determine appropriate modes of worship as well as to determine what constitutes religious practice. It was also expected to determine the personal laws for its members and establish religious institutions. When disputes have arisen on these issues, the government and the courts have referred the matter to community leadership or else determined essential practices by referring to the religious doctrines accepted by the community. In 1958, when the State of Mysore challenged the practices of a Gowda Saraswatha Brahmin temple for disallowing certain castes from participating in religious ceremonies, the Supreme Court referred to community practices. Reading the ancient Hindu scriptures, it maintained that such matters as the reconstruction of a temple, installation of images, conduct of worship, and distinctions between different categories of worshippers are determined by ceremonial law. Even though no person or caste may be refused to enter into the temple, who enters at a particular time, where they stand to worship, and how that worship is conducted are matters of religious practice that may be governed by norms of the community.

Although Article 25 of the Indian constitution did not explicitly give this right to the community, it was assumed that religion is a collective and not an individual matter,

and certainly members of religious worship and practice were to be determined and guided by the community. The value of equal citizenship has two dimensions, one active and the other passive. To be a passive citizen is to be entitled to physical security, a minimum of material well-being and a sphere of one's own in which others ought not to interfere. Under this kind of citizenship, a citizen is entitled to the benefits of right to life, liberty, material welfare and education. The benefits of citizenship must be available to everyone and there is no space for discrimination on grounds of religion. This equal treatment is entailed by the idea of equal passive citizenship. State agencies and the entire system of law must not work in favour of one religious group. If the state works to protect the security and well-being of some individuals or groups but fail to secure these meagre but important benefits to others then the principle of equal passive citizenship is violated. Since citizenship is conditional upon education, no one must be denied admission to educational institutions solely on grounds of religion.

The active dimension of citizenship involves the recognition of citizens as equal participants in the public domain. Such active citizenship rights can be violated or denied in two ways., either when they are brutally excluded from the political domain or when their recognition in the public domain betrays the social acceptance of a belief in the intrinsic superiority of one group, as when there is communally weighed voting or efforts to dilute the votes of religious minorities through the use of gerrymandering. Groups singled out as less worthy are demeaned and insulted, encouraged to feel that patterns of disrespect existing in society at large enjoy official sanction. In contrast to this, equality

of citizenship to which secularism is tied conveys a community wide acknowledgement of equal respect for everyone in the political domain.

Minority Rights and Citizenship

Minority categorizations may be threatened, but citizenship remains resolute and indissoluble through it all. It is only by protecting the dignity of the individual as a citizen that one can eliminate the harshness of minoritization when it takes place. Secularism in Indian context proves this point. Indian secularism dictates that individuals and groups should be neither discriminated against, nor privileged on the grounds of their religious affiliation. Correspondingly, religious affiliations are irrelevant while granting the rights and the status of citizenship. Along with this, every religious group should possess the right to its beliefs and practices. The state is also expected to treat all religions evenhandedly. Thus, Indian secularism is accompanied by three general propositions, namely, non-discrimination, the right to one's religious beliefs and non-alignment of the state with a particular religion. The purpose of secularism thus has been to regulate relationships between people and groups who belong to different and rival religious persuasions. Indian secularism seeks to ensure that these groups will be able to live together in society and in the polity in a reasonable harmony. But Indian secularism does not cover the contingency that minority religious groups may be decaying because of want of attention, or systematic neglect, or because they are subjected to

majoritarianism.¹⁰ Though Indian constitution recognizes precisely the possibility and grant of minority right to culture and religion, yet the concept of secularism does not by itself convey this particular issue. It is reflected in Partha Chatterjee's position on how the issue of citizenship is at stake with the project of Hindutva. He suggests that Anti-secularism is not significant to the project that Hindutva has set for India. Indeed, the mature and most formidable statement of the new political conception of Hindutva is not likely to pit itself at all against the idea of the secular state. Hindu Right seeks to mobilize its constituency on behalf of the will of an interventionist modernizing state, in order to erase the presence of religious or ethnic particularisms from the domains of law or public life, and to supply, in the name of national culture, a homogenized content of the notion of citizenship.

Partha Chatterjee is really concerned about how religious communities in general and minority groups in particular will be able to carry out their project in a democratic and representative manner. He is suspicious of the intervention of the state to bring about progressive reforms within the minority religious groups. Subsequently, he acknowledges that, if the struggle within the minority groups is for progressive change in social

¹⁰ See for details Neera Chandhoke, *Beyond Secularism: The Rights of Religious Minorities* (New Delhi: Oxford University Press, 1999), She suggested that the notion of toleration is inadequate and that the state should be required to put in place supportive structures that enable minorities to prosper like anybody else without losing their cultural identity. There are territorially concentrated and politically self-conscious communities that wish to preserve their distinct languages and cultures within the existing state. The strategy of assimilationist liberalism sometimes has opposite consequences to those who intended by it. When it declines to accommodate the demands of cultural minorities, the determined minorities refuse to give in, and to exploit such spaces as liberalism itself provides to legitimize their demands. Liberalism is extremely sensitive to religion and anxious not to appear intolerant of deeply held religious beliefs and practices. Minorities are naturally tempted to take advantage of this and demand recognition of their differences on the ground that these are an integral part of their religion. See for details, Bhiku Parekh, *Cultural Diversity and Liberal Democracy*, in Gurpreet Mahajan (ed). *Democracy, difference and Social Justice*, Oxford University Press, New Delhi, pp. 208.

practices sanctioned by religion, then the struggle must be launched and won within the religious communities themselves. For this, he talked about the 'resist homogenization from the outside and push for the democratization inside'.

Group Rights and Individual Claims in India

The rights discourse in India is significant in the sense that centrality was accorded to the group as a unit of analysis and as the bearer of rights apart from the individual. The concern for group rights did not arise simultaneously with the adoption and establishment of democracy immediately after independence. In fact, the colonial British policies and the very intruding nature of the imperial state ruled out the possibility of a direct relationship between the state and the individual, but instead recognised communities in the political process as somehow mediating this relationship. Colonial policies thereby ensured the value of the group. The most obvious instance of recognition of communities in the colonial period is found in the provisions for separate representation in legislative bodies.

The post-independence Indian polity decided to continue with the traditional emphasis that had been placed on the group and in this manner came to be characterized by a wide agreement among large sections of the polity on the need for collective rights of communities. Such collective community rights were meant to protect the distinctive cultural practices of the various communities while dropping claims for separate community representation. This consensus on the issue resulted in the fact that concerns with cultural protection in the Indian polity were to significantly predate later liberal concerns with such issues in the West, termed multiculturalism. The important point to

note is that the group has been accorded a pride of place in the discourse on rights in India, to the extent that group rights have frequently overridden and been given priority over individual rights. India can never afford to ignore the policies of multiculturalism even though the degree and variety of ethnic plurality and diversity is endemic.

The need for diversity and thereby the broadening of Indian liberal democracy to make it as accommodative of as many forms of difference as possible is widely accepted by most sections of the polity. The problem is the mechanism by means of which this has to be achieved. Can such diversity, plurality and accommodation be brought about by the usual multicultural methods that, of necessity, entail the privileging and legitimizing of group identities? Will such traditional multicultural methods not mean a reinforcement of the centrality accorded to the group? If yes, does this entail further exacerbation of the problem of over-privileging of group identities that has traditionally been the case in India? Indeed, it can even be asked whether the group should be invested with any rights at all and whether we should opt instead to a complete reliance on individual based rights like staunch liberal individualists.

Thus the important feature of the right discourse in India has been its being skewed in favour of the group rather than the individuals, and more importantly, religious groups gaining the greatest weightage and importance as opposed to linguistic minorities and other backward groups. The rights discourse in India reveals that there are two kinds of groups considered as minorities. The first are religious minorities and the second are scheduled castes. The provision of minority rights is based on the idea that certain

genuine fears that the minority group may harbour with respect to the majority have to be allayed. If such fears are not dispelled then this will result in domination by the majority and the inability of the minority group to participate and contribute in full measure to the polity as a whole. In the case of religious groups, the most notable and obvious of whom were the Muslims, it was felt that their religious and cultural practices had to be protected from the likelihood of being swamped by the majority. Thus, the provisions of minority protection that were extended to them were in the nature of group rights guaranteeing to them the right to preserve their culture, language and script and to set up educational institutions of their choices. Such provisions are to be found in articles 27, 28 and 29 of the Indian constitution. On the other hand, the scheduled castes were being given protective measures of a completely different nature. These protective measures related to guaranteed representation in the legislatures and reservation in government employment such as the bureaucracy.

The claims of religious minorities for similar representation in the legislatures were not conceded. Further, the demand for separate electorates raised by the scheduled castes was also not conceded as it was felt that such a mechanism would only lead to the exacerbation of separatist tendencies as the experience of partition had so painfully shown. The important point that needs to be noted here is that the provisions for minority protection that were extended to the two kinds of minority groups were distinct in nature. For the religious minorities it was guaranteeing them the right to preserve and carry on their cultural and religious policies without being hindered by the state or the fear of being swamped by the larger majority. The concern that thus dictated the thinking of the

framers of the constitution was to ensure an area of negative liberty for the religious minorities that lay within a sphere that was demarcated as the private sphere of these communities. On the other hand, the rights extended to the scheduled castes were intended to ensure their greatest inclusion in the public sphere through the provisions of reservations in legislatures and in employment. It needs to be noted that of the two significant minority groups considered by the constitution, the religious minorities were given rights that pertained mainly to religious and cultural practices of their private sphere; the scheduled castes, on the other hand, were given rights that were intended to provide them with greater access to and hence inclusion in the public sphere.

In India, the rights discourse is skewed in favour of groups as against individuals. More importantly, religious groups and their supposedly inviolable private spheres have been over emphasized. This is problematic as the private sphere of the religious communities, in which their distinct religious and cultural practices are carried out, has been considered in some ways lying outside the reach of liberal principles and the effects of democratization. This has resulted in the extension of liberal principles by the Indian polity actually reinforcing the more retrograde and illiberal tendencies within communities and groups. The most glaring and obvious manifestations of this have been the instances of individual rights being scuttled on the grounds of maintaining group solidarity. Here it needs to be added that a liberal polity must tolerate the existence of groups within it that hold distinctly illiberal attitudes and tendencies. However, such a toleration of illiberal and often retrograde practices and attitudes need not imply the kind of reinforcement of such tendencies that has taken place in the Indian case. This seeming

paradox of illiberal tendencies and attitudes prevailing within a broader liberal political milieu is dictated by the imperatives of liberal principles like tolerance. However, what a liberal polity needs to ensure or guard against is the possibility of individual rights being oppressed for the sake of upholding group principles. This has unfortunately not been the case with the rights discourse in India where group rights have prevailed at the expense of individual rights. This has occurred owing to the preponderant influence that the group has traditionally and historically enjoyed in the rights discourse.

In India, the issues of citizenship presuppose an idealizing and misleading conception of the nation-state as an administratively centralized and culturally homogeneous form of political community in which citizenship is treated primarily as a legal status that is universal, equal and democratic. In this sort of understanding, the Indian state is the only locus of political community that really matters and citizenship just means membership in a nation-state. Subsequently, by taking into account the claims of various groups, who have been bewildered, it has been felt that the idea of citizenship as it is there, is inadequate in many respects. It is conceptually inadequate in the sense that it does not appreciate the multiple dimensions of citizenship and the complex relationships among these dimensions. It is empirically inadequate in the sense that it does not correspond to actual practices that are prevailing here and also the recognition of multiple forms of belonging and of overlapping citizenships. It is also theoretically inadequate in the sense that it fails to see the ways in which recognition of difference may be essential to fulfill the commitment to equality that is expressed in the language of citizenship.

Conclusion

Conclusion

It is necessary to highlight the issues and concerns this work has looked into. All the chapters have been organized around the controversies surrounding civil society discourse in India, particularly in relation to the issues of political society, secularism and citizenship. In the process the contentions on the civil society discourse in India are focussed. In India, the discourse on civil society has unleashed a torrent of controversy as the liberal democratic model prevalent in India, which invokes civil society, itself, suffers from discrepancies. Both traditional norms and particularistic loyalties co-exist with liberal democratic institutions in a conflicting and ambiguous manner. As a zone of rights, civil society becomes important in the entire discussion. At this zone, groups can precipitate and pursue their good life. Equal rights project has to be carried out. Within the terrain of civil society, prioritization of rights has to be taken seriously. The rights discourse entails an interconnected conception of the individual, the self, society and property, but rights claims, as distinct from the rights discourse may still be capable of justification under different social conditions.

The urge for genuine or substantial democracy in India has equally motivated a serious concern with civil society. The diverse meanings and understandings of the concept of civil society in the West have captured different notions also in India. But scholars across the world agree that civil society has the potential to consolidate democracy.

Secularism is not inimical to civil society. Civil society can salvage certain strong versions of secularism and their values particularly in the recent context of its delegitimation in the polity. There are scholars in India who reject terms like secularism on the ground that it is alien to and lacks any affinity with Indian culture and traditions. However, other terms like democracy or equality are readily acceptable. This part rejection and part acceptance of terms, considered alien, makes their criticism superficial and clearly arbitrary. If secular is alien, is 'democracy' or 'equality' any less so?

The discourse on civil society has urged the state to be definitive in its orientation to promote and expand civil society in India. The task is to check the untrammled power of the over-extended state or to fill the vacuum of the deficient or poverty-stricken state. Civil society too has to counter and contain the exploitative and hegemonic forces in society. As long as the exploitative and hegemonic forces are not contained and countered, till then people will be denied equality, freedom and justice. Civil society provides a platform for collective deliberation of groups and communities, pleading on their behalf and on grounds of rights.

Civil society in India marks a contested realm characterized by conflicting ideologies, organisations and movements but it also provides space for autonomous citizen action and emancipatory politics outside the state and political parties. The terrain of civil society also allows for contestation between organisations pursuing narrower and potentially conflicting ideologies. In India, the application of normative elements of civil society can not be applied instantly as there are different types of organisations operating

in the domain of the state as well as civil society. So in this sense, many have argued that the concept of civil society is inappropriate as a heuristic device for capturing and interpreting indigenous social practices and associational forms as it derives from theoretical traditions rooted in the evolution of western capitalist societies that have little relevance to the contemporary Indian context. This work, however, argues that many of our central concerns in India are closely bound up with the concerns of civil society and the concept is eminently relevant to us.

Civil society has been a principal site of ideological contestation to eliminate exploitation as well as a zone through which organisations and social movements assert their normative claims. There are different political practices, which sometimes have been incorporated in the space of political society. Civil society grows at a different pace and through different means as compared to political society. While political society can be created from the outside by extension of citizenship rights, civil society grows organically and incrementally. Though there are possibilities of jeopardizing the normative values of civil society by political society as the polity delegitimises the idea of secularism as has been discussed in the chapter on 'civil society and secularism', yet democracy provides channels of recuperating the former.

Partha Chatterjee is inclined to tilt towards political society over civil society as the site of post-modern creativity. Identifying political society with democracy and civil society with modernisation, he has argued that the parties and protest groups making up political society have greater capacity for bringing forward the concerns of marginalized

people to the forefront than modern civil society. He forecasts an emerging opposition between modernity and democracy or between civil society and political society as new groups claim entitlements that directly contradict the universalist modern conventions of civil society.

Civil society promotes trust, choice and the virtues of democracy and even some theorists suggest that civil society is better equipped to meet needs, deliver services and further social solidarity than the state. While pleading for a wide-ranging civil society, these scholars view that the state institutions should be restricted in order to allow the flourishing of associational life to effect all these goods. Civil society should enable the emergence of the public sphere in which differentiated social sectors express their experiences and formulate their opinions enabling citizens to expose injustice in the state and economy and make the exercise of power more accountable.

While acknowledging the vital role of civil society in India in promoting inclusion, presence and democracy, the importance of Indian state can not be repudiated as state institutions generally possess the capacity for co-ordination and regulation. Indian state has also the responsibility to ensure multiple dimensions of citizenship rights. The construction of political space through civil society can be appreciated as reinforcing such a state. At the space of civil society, both the traditional as well as modern organisations can negotiate upon the virtues of democracy.

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