Chapter 2
From T.H. Marshall to Jawaharlal Nehru: Citizenship as Vision and Strategy

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Abstract Jivanta Schoettli brings in the dimension of European-Indian entanglement. British sociologist, T. H. Marshall and India's first Prime Minister, Jawaharlal Nehru were contemporaries. Sharing the intellectual lineage of British liberalism both were preoccupied with the same issues of national integration and socioeconomic divisions but within very different contexts. The essay seeks to identify some of the shared conceptual tools and institutional remedies that Marshall and Nehru reflected upon and applied. The chapter goes on to examine specific debates in the Indian Constituent Assembly that showcase the *transcultural* nature of decisions and institutions which later framed the discourse on citizenship within India's postcolonial political development.

The British sociologist, T. H. Marshall and India's first prime minister, Jawaharlal Nehru were close contemporaries. What makes the parallel between Nehru and Marshall especially interesting is the fact that they shared an intellectual lineage in the form of British liberalism as it had evolved in the nineteenth century, and the particular variant of Fabian socialism that had emerged out of it by the early twentieth century. Both were preoccupied with the same question of how to foster national integration: while Marshall was formulating a theory about the integrative function of citizenship rights to counter the problem of growing inequalities and class divisions within England, Nehru was debating the principles and articles of India's Draft Constitution. Furthermore, as it will emerge in this chapter, Nehru and Marshall shared a belief in the potential for socioeconomic rights to act as the spur that would overcome divisions and disparities stemming from class, in the case of England, and caste, religion, and ethnicity in the case of India.

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By focusing on Nehru this essay seeks to explore the transcultural sources and nature of debates about citizenship in India. It is contended that these discussions which took place in the 1950s occurred during a crucial phase of political and institutional transition which had long-term impact on the country's political development. The chapter considers what is meant by the term, "transcultural," examining closely two core analytical concepts: the *social imaginaire* and the pervasiveness of *asymmetry* in cultural flows. Both, it is argued, are useful tools when trying to incorporate culture and conceptual flows into an analysis of how institutions emerge and evolve across time and space. In the second part of the paper, citizenship is discussed as an example of institutional change using the two concepts of the social *imaginaire* and asymmetries in cultural flow. This is done on two levels. First, Jawaharlal Nehru himself is portrayed as a carrier, a facilitator of cultural flow par excellence. Secondly, the discourse in the Constituent Assembly Debates (CAD) surrounding questions of religious and minority rights for India's citizens is analysed. Meeting over a period of almost 3 years in 11 parliamentary-style sessions to hammer out the country's constitution, the CAD provide an excellent insight into the terms of debate about fundamental principles of freedoms, rights, and equality.

The topic of religion and minority rights highlights how the transfer of ideas and practices was a two-way process during the colonial period with important ramifications for institution building and policy making after independence. Furthermore, the modernisation package which Jawaharlal Nehru came to personify entailed not only a *vision* of modern India but also brought in its wake *strategies* that complicated and compromised the delineation of citizen rights and the definition of equality. It is argued that both vision and strategy are important components of any institution and are essentially products of a dynamic process involving cultural and conceptual flows. A final section summarises the value added of analysing citizenship in transcultural terms.

Citizenship as Vision and Strategy

Most studies of citizenship tend to adopt a historical perspective, culminating in modern times, implying a cumulative process of citizenship rights. In extreme cases there is a teleological sense of progress implied in the various stages but usually a narrative is presented linking "original" ideas of the Athenian citizen and Roman civitas to the modern phenomena of the nation state and ideas of territorial sovereignty and citizenship. Such descriptions tend to locate the momentum propelling the practice and discourse of citizenship in sites of conflict and struggle. The universalist or unitary model defines citizenship primarily as a legal status through which an identical set of civil, political, and social rights are accorded to all members of the polity. T. H. Marshall's seminal essay "Citizenship and Social Class" is the main reference for this model, which became progressively dominant in post-World War II liberal democracies. Marshall's central thesis was that the twentieth century's

expansion of social rights was crucial to the working class's progressive integration in British society (Marshall and Bottomore 1950:11). Similar stories were told in other Western democracies: the development of welfare policies aimed at softening the impact of unemployment, sickness, and distress it was argued was fundamental to political and social stability. The apparent success of the post-war welfare state in securing social cohesion was a strong argument in favour of a conception of citizenship focused on the securing of equal civil, political, and social rights.

However, more recently scholars have begun to discuss the fact that the emergence of citizenship depends not only on changes in the material distribution of power but also results from the shifting of ideas, beliefs, and values.[1] By taking such variables into account there is greater scope for analysing the variation that occurs across time and space in terms of what Homi Bhabha has described as the "in-between forms which derive from the selective reception of or even resistance to foreign goods, ideas and practices." (Bhabha 1994) Taking this into account it is possible to think of citizenship as being a universal ordering device and norm, as well as one that varies in meaning and contestation according to context.

The chapter draws upon two key conceptual tools: the social *imaginaire* and the notion of asymmetry. In a paper titled "Cultures of Democracy and Citizen Efficacy" Charles Taylor uses the social *imaginaire* to demonstrate how transitions to democracy will be very different from each other because the people concerned are moving from very different pre-democratic repertoires and are often moving to rather different variants of democratic imaginary (Taylor 2007). The social imaginary for Taylor consists of "an ensemble of practices which they can make sense of" and which in turn depends on (one) the actors having a sense of themselves as forming a collective agent, capable of acting together; and (two) the ensemble of actors knowing what to do, or in other words having agreed practices in its repertory that put the new order into effect. Such an approach provides an alternative perspective to common views of development and acculturation, the former often portrayed as a stage-by-stage process and the latter, usually described as the wholesale adaptation to an emulated culture. Instead, as Taylor concludes, "we should not think of transitions as different routes to the same (at least hoped-for) end point, a stable democracy of a normal kind. In fact, democracies are path dependent; the founding transitions they undergo mark their future." (Taylor 2007: 121) Furthermore, as Homi Bhabha and others have pointed out, the accepted wisdom of acculturation and development disregards the agency of the members of the receiving society and their active role in shaping asymmetrical cultural contacts.

In fact it is precisely the condition and nature of *asymmetry* which the Heidelberg Cluster of Excellence "Asia and Europe in a Global Context: Shifting Asymmetries in Cultural Flows" uses as one of its central heuristic devices to explore the dynamics of cultural flows. A few core aspects are identified:

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[1] See the work of the Indian sociologist, Andre Beteille for example.

1. The notion of asymmetry in cultural flows is neither a passive nor a constructed constellation, but itself a factor whose perception releases a broad range of creative and destructive manifestations of human agency.
2. As a result this is an approach that recognises the instability of cultural flows over time and takes issue with the idea of "culture" as a clear entity with social, religious, linguistic or geographical boundaries.
3. In the process history is itself part of the conceptual asymmetry and plays a key role in structuring the social *imaginaire*.
4. Context is given great importance in terms of the diversity it generates in the voices and actions of human agents.

However, since it is argued here that citizenship is essentially about policies and policy-making the chapter makes the added contention that vision and strategy together determine the staying power of a particular policy preference. A mix of value and instrumental rationality,[2] emerging from the social *imaginaire* and asymmetries generated by cultural flow congeals to produce a particular policy. As a result, rather than conceive of citizenship in terms of being struggle-driven, or a top-down/bottom-up, or an active versus passive development, a transcultual perspective involves an analysis that takes asymmetry to be at the root of change, transformation, innovation, and conflict. Since human agents are involved, the *perception* of this asymmetry unfolds a particular dynamic of its own and becomes one of the driving forces of human agency and interaction. It is argued in this essay, and demonstrated in the following section, that even citizenship, with its tendency towards a uniform and universal understanding of legal rights and the propensity of a rights-based conception of citizenship to increase pressures for mass political participation, is a *transcultural* phenomenon.

Nehru's Challenge in Marshall's Terms

Jawaharlal Nehru is an illustrative case of the above statement. As one of the key negotiators with the British and a central shaper of modern India's institutions, Nehru's views on citizenship, the state, and national unity act as a crucial prism for understanding his policy, preferences, and choices. Born in 1889 into a wealthy Brahmin family that had settled in Allahabad in the northern state of Uttar Pradesh, though originally hailing from Kashmir, the child Jawaharlal was exposed to both great religiosity from his mother, Swarup Rani, and the highly Westernised habits

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[2] Max Weber, and the distinction he drew between 'instrumental' and 'value' rationality, is constructive. Rationality in its more traditional sense implied a consequential logic where social action is "determined by expectations as to the behaviour of objects in the environment and of other human beings; these expectations are used as conditions or means for the attainment of the actor's own rationally pursued and calculated ends." Weber's "value" rationality drew attention to outcomes that cannot simply be explained in utilitarian terms, when action is "determined by a conscious belief in the value for its own sake of some ethical, aesthetic, religious, or other form of behaviour, independently of its prospects or success".

and views of his father, Motilal Nehru. From 1901 to 1904 Jawaharlal was educated at home by a European tutor and then sent, at the age of 16, to Harrow, and from there to Trinity College, Cambridge where he graduated with a lower second in the Natural Sciences Tripos in 1910. In accordance with the wishes of his father Motilal Nehru, a highly successful barrister and political figure in his own right, Jawaharlal went on to read law at Gray's Inn, London, the same place where before him Mohendas Karamchand Gandhi and Muhammad Ali Jinnah among others, had studied. It is during this time that Jawaharlal encountered the movement of Fabian Socialism popular at the time in Britain, through the lectures of Harold Laski at the London School of Economics and began to develop his own political outlook.

Key developments in the political and intellectual climate of turn-of-the-century Britain were to play a crucial role in shaping the policies of both post-war Britain and independent India. Amongst these, the influence of the Fabian society is an important prism through which to observe the change and continuity in ideas and practices from the age of Victorian utilitarianism to the post-war social democracy and welfare politics of the Labour Party. Founded in 1883, the Fabian society attracted a number of intellectuals including among others, George Bernard Shaw, H. G. Wells, Annie Besant, Harold Laski, Beatrice and Sidney Webb. What is interesting is how closely Nehru's thoughts on the state, modernisation, and development reflected the twin sources of ideas popular at the time in Britain: utilitarianism and Fabianism.

Crucial to note is that the utilitarian idea of progress was not only the progress brought about by scientific innovation; so was the reform of the existing social order. Hence, Governor-General Dalhousie saw it as his duty to tackle the problems of infanticide, female education, and the treatment of Hindu widows. Unity of authority, uniformity of management, and legal practices were essential principles within this vision of governance. Codification was to emerge as one central instrument to put these principles into practice. References by Dalhousie to "the good of the community," "the interests of the public," and "the welfare of mankind" were echoes of the central utilitarian, "Greatest happiness of the greatest number precept."

Fabianism, as a current of political thought emerged in response, or rather, in dialogue with the dominant ideas and experiences of industrialisation during the Victorian age. Believing in the possibility of gradual transition and reform, the Fabian Society rejected notions of class struggle and revolutionary change advocated by Marx's followers. Instead, it was argued that evolutionary and constitutional methods, the use of persuasion and permeation, would bring about a gradual process of socialisation. Although Fabianism came to be embraced by the post-war Labour government it was never a doctrinal set of principles. The main goal of its adherents was to tackle the great injustices wrought by the capitalist system and to spread the theory of evolutionary socialism. As a result, democracy was to play a central part in the Fabian outlook given that it provided the opportunity to bring about change peacefully and gradually.

Emerging from the hothouse of Fabianism that was the London School of Economics (LSE), Marshall was also deeply immersed in the liberal socialist tradition of the LSE where he taught from 1925 to 1956. Teaching at the same

time at the LSE were Harold Laski and Lord William Beveridge who was director of the School (1916–1937) and author of the parliamentary Social Insurance and Allied Services Report, more commonly known as the *Beveridge Report* in which he famously proposed a model of citizenship that included a social security system that would be "an attack upon want." By the 1930s Laski was advocating that only the state could provide for those interests which all citizens did share in common. Laski, too, emphasised the prominence of the economic factor. "Changes in the methods of economic production appear," he thought "to be the most vital factor in the making of change in all the other social patterns we know. For changes in those methods determine the changes of social relationships; and these, in their turn, are subtly interwoven with all the cultural habits of men." He claimed that the economic factor is "the bedrock upon which the social superstructure is built," and that "the way in which it mainly operates is through the struggle of economic classes to possess the state-power." For all these luminous public figures and scholars, therefore the state represented the key actor that would act in favour of the public good.

Marshall's core contribution was to argue that the extension of citizenship could act as a political instrument of integration to counterbalance the divisive forces of class inequalities. To add legitimacy to his proposal, Marshall constructed a theory of citizenship based upon the central claim that citizenship had grown incrementally and was expressed progressively, in three different dimensions, namely the civil, the political, and most recently the social. The eighteenth century, according to his schema, had witnessed the development of civil rights, targeting mainly the legal status and civil rights of the individual, rights which were to be defended in a law court. Core rights in this case referred to freedom of speech, the right to a fair trial and equal access to the legal system. Moving into the nineteenth century, Marshall noted the extension of political rights, an outcome of the working-class struggle for political equality, through greater access to the parliamentary process. Improvements under this rubric referred to electoral rights, the invention of the secret ballot box, the creation of new political parties and the expansion of the franchise. Finally, the twentieth century, according to Marshall, engendered "social rights," which included claims to welfare, entitlements to social security, and unemployment benefits, etc. In addition to this stage-by-stage account of citizenship, Marshall observed the emergence of a "hyphenated society," a social system where there was perpetual tension between the need for economic profitability, the taxation requirements of the modern state, and the rights of citizens to welfare provisions.

For Nehru, tackling the challenge of national integration in a country of vast socioeconomic disparities, beset by linguistic, ethnic, and religious fault lines, the state also represented a beacon light as the only guarantor of a fundamental equality of status. Having been granted very limited and partial access to civil and political rights under the British, the great hope for the modernists of independent India was that social (and implicitly economic) rights would provide the basis for a more equal and unified society. A prime example of this is the 1931 Congress Party Resolution on Fundamental Rights, which was the brainchild of Jawaharlal Nehru and came to be known as the Karachi programme. It would later be described as the first commitment of the Congress to an economic programme. Hence, while the

Nehru Committee Report of 1928 had recommended among other things free elementary education, the maintenance and improvement of labour and economic conditions, the maintenance of health, etc., the Karachi Resolution went further and provided for the organisation of economic life on the "principle of justice" and "to safeguard the interests of industrial workers." Later, during the Constituent Assembly Debates, Jawaharlal Nehru, when moving the Objectives Resolution, spoke of the content of "economic democracy" and went on to emphasise the "promise of food and opportunity for all." (Tiwary 1967: 154)

Given the—perhaps misconceived—shared intellectual milieu, it was not surprising that Nehru spoke in terms and about conditions that were more relevant to industrialised societies, such as that of Britain and the Soviet Union. However, aside from the obvious transfer of ideas, both popular and radical, at the time, the case of Nehru and policy making in 1950s India, encapsulates a far more convoluted and coagulated process of cultural flow, as a close analysis of his views on religion and minorities will reveal.

Nehru on Religion: Instilling a Modern Imaginaire

As has often been quoted, when asked what had been his greatest challenge as prime minister of India, Jawharlal Nehru replied, "Building a secular state in a religious country." On the topic of religion, Nehru propounded various arguments portraying its negative effects on society and politics. His earliest published volume, *Letters from a Father to his Daughter*, is extremely negative about the role of religion. Describing the origin of religion which, "first came as fear. . .But however, much it may have grown, we see even today that people fight and break each other's heads in the name of religion. And for many people it is still something to be afraid of. They spend their time in trying to please some imaginary beings by making presents in temples and even sacrifices of animals." (Nehru 1981: 41)

Another common attack against religion was that it was partly to blame for India's weaknesses and a reason why the region had succumbed to imperial rule. With independence the country was to wipe the slate clean and start anew by embracing modernity. The radicalism of the early Jawaharlal Nehru shows through particularly in speeches aimed at rousing the young. For example, in his presidential address to the Bombay Presidency Youth Conference in 1928, Nehru proclaimed:

> We must aim, therefore, at the destruction of all imperialism and the reconstruction of society on another basis. . .Our national ideal must, therefore, be the establishment of a cooperative socialist commonwealth and our international ideal, a world federation of socialist states. Before we approach our ideal, we have to combat two sets of opponents—political and social. We have to overcome our alien rulers as well as the social reactionaries of India. . .Religion has in the past often been used as an opiate to dull men's desire for freedom. . .Religion has been the fountain-head of authoritarianism and meek submission. (Gopal 1987a: 206–7)

On numerous occasions Nehru expressed his firm conviction that religion and religious categories would lose their relevance; for example, this crops up during a series of articles written between 1933 and 1934, published in various newspapers.

In response to Muhammad Iqbal who had accused Gandhi of preventing Muslims and the "Harijans" from making common cause at the Round Table Conference, Nehru stated "Personally, I am not interested in religious labels and I am sure that they will soon disappear, or, at any rate, cease to have any political significance." (Nehru 1934: 62)

Nehru went on to define his outlook which "is not religious and I find it difficult to think of groups in terms of religion. Sir Mohammad evidently does so to the exclusion of other and more modern ways of thinking, and I am afraid he confuses religion with race and culture." (Nehru 1934: 63)

The unity of India was a central concern for Nehru during this period and almost all his books deal with this theme either from a historical, cultural angle or in terms of the success of a national freedom movement. Though it is not mentioned explicitly, secularism does begin to appear in Nehru's vision as the glue for holding together a state such as India and providing the basis for a national consciousness, overcoming "numerous superficial differences." (Nehru 1934: 65) Furthermore, the early Nehru demonstrated awareness for the challenges entailed in establishing a level playing field where the majority community makes compromises and the minority community feels protected and not disadvantaged. However, as Nehru himself pointed out in his retort to Iqbal, "What are these minimum safeguards (for the protection of a minority) and who is to decide them? The minority itself? How are we to know what the minority community really desires? Are we to take the opinion of any small group claiming to represent the community? And when there are several such groups, what are we to do?" (Nehru 1934: 66)

Much later on, Nehru's writings in prison reflected a deepening faith in modernisation and a "scientific rationalism." Hence the scientific approach was described by Nehru as "the refusal to accept anything without testing and trial, the capacity to change previous conclusions in the face of new evidence, the reliance on observed fact and not on pre-conceived theory, the hard discipline of the mind—all this is necessary, not merely for the application of science but for life itself and the solution of its many problems." (Nehru 1985: 512) Whilst in contrast, the methods employed by religion were seen as compounding society's problems:

> Concerned as it is principally with the regions beyond the reach of objective inquiry, it relies on emotion and intuition. And then it applies this method to everything in life, even to those things which are capable of intellectual inquiry and observation. Organised religion, allying itself to theology and often more concerned with vested interests than with things of the spirit, encourages a temper which is the very opposite to that of science. It produces narrowness and intolerance, credulity and superstition, emotionalism and irrationalism. It tends to close and limit the mind of man, and to produce a temper of a dependent, unfree person (Nehru 1985: 513).

Although Nehru had his differences with Gandhi he chose not to publicise them too much. One such occasion when he did articulate his disagreement with Gandhi's goals and methods occurred in September 1932 when Gandhi began a "fast unto death" on the subject of separate electorates for India's "depressed classes" which Gandhi considered to be a British attempt to divide and undermine Indians along further cleavages. Nehru, on the other hand, considered this to be a "side issue", writing in his autobiography that he "felt angry with Bapu at his

religious and sentimental approach to a political question...And his frequent references to God—God has made him do this—God even indicated the date of the fast...What a terrible example to set!" (Gopal 1987b, Volume 5: 408)

Nehru's ideas about religion and the "false consciousness" behind the forces of communalism were in sync with the world view of British social reformers and liberal radicals of his time. However, two important ambiguities were to manifest themselves in Nehru's own writings and ultimately in the articles of the constitution. Despite being adamant about the negative side effects of religion and its inevitable waning significance in the face of modernisation, Nehru adopted a more "understanding" approach towards Islam and India's Muslim community. This apparent contradiction with his stance towards Hinduism is most obviously manifest in his position on the Hindu Code Bill and the Uniform Civil Code, which will be examined below. Secondly, Nehru's extensive tirade against religion through most of his political career did not generate a coherent theory or position on what the role of the state should be towards religion. In fact, no clear statement on secularism was to emerge, neither from Nehru's writings and pronouncements nor out of his policies later on in government.

Nehru on Islam and Minorities: Perceived Asymmetries in Cultural Flow

Nehru's position on minority rights was pervaded by an exaggerated sense of the asymmetries between Hindus and Muslims that he believed to be historically entrenched and which had become politically institutionalised under colonial rule. Hence, he posited that, "a special responsibility does attach to the Hindus in India both because they are the majority community and because economically and educationally they are more advanced." (Gopal 1987c Volume 6: 168) However, while Hindus are berated for having fallen behind the rest of the world because of inherently retrograde social customs such as the caste system and mystification, the particular Muslim trauma had to be treated differently given that it suffered from exogenous shocks. The following needs to be quoted at length as it captures this sentiment well:

> Moslems have produced few outstanding figures of the modern type. They have produced some remarkable men but, as a rule, these represented the continuation of the old culture and tradition and did not easily fit in with modern developments. This incapacity to march with the changing times and adapts them culturally and otherwise to a new environment was not of course due to any innate failing. It derived from certain historical causes, from the delay in the development of a new industrial middle class, and the excessively feudal background of the Moslems, which blocked up avenues of development and prevented the release of talent. In Bengal the backwardness of the Moslems was most marked, but this was obviously due to two causes: the destruction of their upper classes during the early days of British rule, and the fact that the vast majority were converts from the lowest class of Hindus, who had long been denied opportunities or growth and progress. (Nehru 1985: 390)

As a result, the narratives Nehru constructed to explain the weaknesses of religious communities to cope with modernity rested on very different explanatory

variables. On the one hand Hinduism is portrayed as inherently backward whilst the fate of Islam is to be empathised with because of the negative outcomes resulting from its encounter with British rule. This lopsidedness persists through most of Nehru's writings and into his years of policy making as prime minister. For example, although communalism was condemned by Nehru both in its Hindu and Muslim variants, the harsher criticism was always directed at the Hindu Mahasabha.

Another instance of bias arises in his book, *The Discovery of India*, where Nehru devotes quite a few pages to "secular" thinkers and movements like that of Vivekananda, Rabindranath Tagore and Annie Besant, but hardly acknowledges the important reform movements of the Brahmo Swaraj and Arya Samaj[3] which were more explicitly based on Hindu philosophy, Hindu practices, and ideals (Nehru 1985: 335–41). On the Muslim front however, Nehru lauds the more religious reform movements such as Sir Syed Ahmad Khan's Aligarh Movement[4] as well as more secular Muslim leaders like Abdul Kalam Azad. Recognising the psychological dilemmas that Indian Muslims faced over matters of history and allegiance, Nehru wrote with compassion about the challenges they must have faced. For, "to begin with, the new middle classes were almost absent among the Moslems. Their avoidance of Western education, their keeping away from trade and industry, and their adherence to feudal ways, gave a start to the Hindus which they profited by and retained. …The Revolt of 1857 was a joint affair, but in its suppression Moslems felt strongly, and to some extent rightly, that they were the greater sufferers. This Revolt also put an end finally to any dreams or fantasies of the revival of the Delhi Empire." (Nehru 1985: 380–83)

The spread of rioting across India in the mid-twenties, that involved sections of the Hindu and Muslim communities, compelled Nehru to take a clearer position on the question of religion in politics. The process of divergence between the religious communities was further aggravated by British official policy, symbolised by the establishment of separate electorates; and as the franchise was broadened periodically on this basis, the communal elements grew correspondingly stronger. From this analysis Nehru drew the conclusion that the communal problem was a wasteful diversion from the main campaign against the British. The communal parties, both Hindu and Muslim, derived their support from the feudal and upper classes and were defensive of vested interests in seeking office and employment from the British. So, to Nehru, these communal parties were giants with feet of clay who would fade into nothingness in the light of reason once the British were pushed out. He, therefore, in accordance with his favourite strategy of indirect approach, ignored the communal problem and concentrated his energies on the national movement against foreign rule and the need to give that movement an economic slant rather than develop a coherent agenda in regards to what form a secular state was to take.

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[3] The *Brahmo Samaj* and *Arya Samaj* movements were both important Hindu reform movements founded in the mid-nineteenth century.

[4] A movement launched in the mid-nineteenth century to educate Muslims of the Indian subcontinent.

These ambiguities on the nature of secularism in the Indian context as well as the special rights to be guaranteed to minorities are also apparent in the articles of the constitution itself. The following section deconstructs some of the debates that occurred within the Constituent Assembly and the implications this had for the making of the Indian citizen.

The Post-Colonial State: Delineating the Indian Citizen

The Constitution of India, with its 395 articles and eight schedules, is the longest constitution in the world. Perhaps what is most interesting about the document is the duality on a number of issues that is enshrined in its provisions. For instance, it is committed to both individual and group rights, and on the subject of religion there is considerable room for interpretation and manoeuvre. A number of articles appear to explicitly support the "wall of separation" position with regards the state and religion. Article 15 (1) states that the state shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth, and Article 16 (1) and (2) of the Indian constitution affirms an equal opportunity for all citizens in matters relating to employment or appointment of any office under the state. It further affirms that no citizen, on grounds of religion or race, can be ruled ineligible for or be discriminated against in respect of any employment or office under the state. Under Article 25 (1), "all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion" and Article 29 (2) declares that no citizen shall be denied admission into any educational institution maintained by the state on grounds only of religion, race, and so on. The clause on universal franchise declares a general electoral roll for all constituencies and states that no one shall be ineligible for inclusion in this roll or claim to be included in it on grounds only of religion.

At the same time there are articles which directly enjoin the state to intervene on the behalf of religion. Article 30 (1) recognises the rights of religious minorities. Secondly, Article 30 (2) commits the state to give aid to educational institutions established and administered by religious communities. Also permitted is religious instruction in educational institutions that are partly funded by the state. These are significant departures from the "wall of separation" view of the secular state. Even more significant are Articles 17 and 25 (2) that *require* the state to intervene in religious affairs. Article 25 (2) (b) notes that "nothing in Article 25 (1) prevents the state from making a law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus." Article 17 is an uninhibited, robust attack on the caste system, arguably the central feature of Hinduism, and abolishes untouchability and makes the enforcement of any disability arising out of it an offence punishable by law.

For some, the ambiguous nature of secularism in India means that it is no longer secularism in the Western sense of the term. Scholars have argued that secularism in India has to be understood in terms of its particular cultural background and social context. For instance, Rajeev Bhargava identifies four important aspects (Bhargava 2002: 24):

1. First, there exists the mind-boggling diversity of religious communities in India. Such diversity may coexist harmoniously but it invariably generates conflicts, the most intractable of which, I believe, are deep conflicts over values.
2. Within Hinduism in particular and in South Asian religions more generally, a greater emphasis is placed on practice rather than belief. A person's religious identity and affiliation are defined more by what s/he does with and in relation to others, than by the content of beliefs individually held by them. Since practices are intrinsically social, any significance placed on them brings about a concomitant valorization of communities.
3. Many religiously sanctioned social practices are oppressive by virtue of their illiberal and inegalitarian character, and deny a life of dignity and self-respect. Therefore, from a liberal and egalitarian standpoint, they desperately need to be reformed (. . .). It follows that an institution vested with enormous social power is needed to transform their character.
4. In Hinduism, the absence of an organized institution such as the church has meant that the impetus for effective reform cannot come exclusively from within. Reform within Hinduism can hardly be initiated without help from powerful external institutions such as the state.

This chapter proposes that simply listing the particularities of the Indian case certainly stretches the applicability of the term secularism but in the process divests it of the value and instrumental rationality contained within its particular Indian institutional form. Instead, it is argued that the multifaceted nature that secularism has taken on in Indian citizenship has to be understood in light of the country's particular experience of cultural flows and the coping mechanisms that this generated. This means that the tensions and contradictions generated over group rights and individual rights and the provisions that arise for an equal citizenry are different in India and cannot be simply dismissed as deviations or discrepancies.

For example, having experienced the institution of separate electorates introduced by the British, a distinction was drawn in the Constituent Assembly Debates between community-based *civic* rights and religion and caste-based political rights. Hence, separate electorates were considered and vehemently rejected in the CAD. In fact, this became a discussion about equal citizenship rights and it was argued that special political rights were not to be granted because this would lead to permanent divisions and permanent minorities whilst instead as one of the members put it, "the minorities must be dissolved into the majority by justice." (As argued by Hridaya Nath Kunzru in the Constituent Assembly Debates).

Justice was to stem from the granting of community-based social rights. For instance, for Ambedkar, such minority rights had an absolute status. When preparing the interim report on fundamental rights he was asked by Mahavir Tyagi if the grant of cultural and educational rights to minorities in India should not wait until the fate of minorities residing in Pakistan was more clearly known. Ambedkar replied firmly that the rights of minorities are not relative or conditional upon the decision of other states but were absolute: "No matter what others do", he urged, "we ought to do what is right in our own judgement and, therefore, every minority, irrespective of any other consideration, is entitled to the right to use their language, script and culture and the right not to be precluded from establishing any educational

institution that they wish to establish." As a result, minority rights were firmly entrenched within the Indian political and social *imaginaire* and produced an Indian constitution that was to be committed to citizenship founded on universal principles of equality based on the individual, as well as claims hinging on group difference.

The Post-Colonial State: Coping with Cultural Flow

To fully understand the terms of debate within which even present-day discussions about religion and minority rights take place in India, it is insightful to examine long-run processes of cultural flow. This is useful because it highlights the extent to which issues and ideas are inevitably transcultural. For example, the establishment of formal British rule brought with it a radical break with existing customary relationships between the ruling institutions and the religious institutions. In those relationships, both in the Hindu and Islamic traditions, religion had supported kingship while the kings had protected and maintained religion. Both traditions stress that the ruler should order society according to sacred law, endow places of worship and support religious schools, etc. This understanding was transmitted with great clarity and pragmatism to the British, too. For example, a letter that the priests of the Hindu temple complex at Puri wrote to Lord Wellesley, the Governor-General in 1804, after the British East India Company had extended its control from Bengal to the coast of Orissa, welcomed Wellesley as their new ruler and informed him that he owed his victory to their gods and that he must now support their temples. (Embree 2002)

As the British became rulers in the late eighteenth century, the East India Company's officials continued to be involved with local religious institutions, even going so far as to administer pilgrim taxes and participate in the selection of priests. Coinciding with a rise of evangelicalism in Britain, this produced a backlash that was to have a formative role in the policy of the British government in India toward the religion of its subjects. In the first place, the zeal to spread the Christian faith set in and, secondly, the compulsion that the Christian faith required to attack what was regarded as social evils. At home, the list of such evils was long and disparate, but included, most prominently, the slave trade, child labour, prostitution, drunkenness, and ignorance of Christian truth. In India, the list was longer, but it is of fundamental importance that these social evils were caused, in the evangelical reading of the nature of Indian society, by the Hindu religion itself, not by its racial composition.

Occurring at a time when utilitarianism was also taking root, the justifications for reformist policies were justified on the grounds of good governance. A great test of the colonial compromise, of giving good government while not grossly offending the religious sensitivities of the ruled, came to a head over the demand, largely from groups in England, that the British government in Bengal should ban the practice known as "sati". In 1829, Governor-General Lord William Bentinck finally declared

the practice illegal throughout the Indian territories under British control. His minute justifying his action is a reasoned statement of how a government, while holding to a principle of neutrality and non-interference in the religious beliefs of the people, can nevertheless use coercion in a specific instance to make drastic revisions to religious practices. The Bentinck minute was a precursor to the escape clause that the makers of the Indian constitution included 120 years later when they sought to guarantee complete freedom of religious belief and practice. This freedom was "subject to public order, morality and health," and the state had the right to regulate and restrict any "secular activity" associated with religion, if it violated the public good.

With the 1857 mutiny yet another disjuncture can be identified with Queen Victoria's proclamation to her Indian subjects at the end of the uprisings, which included the most explicit statement yet made about the British government's attitude toward religion. "While firmly relying ourselves on the truth of Christianity," the Queen declared, "We disclaim alike the right and the desire to impose our convictions on any of our subjects." None was to be favoured or molested because of religion, and those in authority were to abstain from "all interference of the religious belief or worship of any of our subjects."

As a result, the postcolonial state of independent India was inheritor to all these approaches on the subject of religion and minority rights ranging from the position that the state must actively sustain religion, that the state must simply be guided by principles of good governance and the greatest good, to a position of noninterference and neutrality. Each came equipped with a particular vision of the public good, as well as a set of strategic resources drawn from the inheritances of three radically different civilisations of India, the Islamic world, and the West. The cultural flows that occurred entailed a constant flow and counterflow, a reshaping of the rules of the game which generated new forms in the process. This contention is examined below in light of the debates on secularism and the Hindu Civil Code and the ongoing political discourse about the fate of a Uniform Civil Code that would guarantee the provision of equal rights to all citizens of India.

Vision and Strategy in the Making of the Indian Citizen

1. The Debate on Secularism

In the Constituent Assembly on 17 October, 1949, disagreement and acrimonious debate occurred over the incorporation of the principle of secularism. On that day H. V. Kamath began the discussions by moving an amendment to begin the preamble with the phrase, "In the name of god." Opponents to Kamath's amendment continued to insist that religion was a matter of individual choice and that on this matter the collective will should not be imposed. Kamath's amendment was defeated by 68 to 41. However, the Assembly also turned down a suggestion from the opposition, who wanted to include the word "secular" in the preamble.

Brajeshwar Prasad from Bihar moved that the first sentence of the preamble begins as follows: "We the people of India, having resolved to constitute India into

a secular cooperative commonwealth to establish socialist order and to secure to all its citizens (...)." Unfortunately there was no discussion on the inclusion of the term "secular"; most members ridiculed Brajeshwar Prasad's attempt at making the constitution a socialist instead of liberal democratic document, and his amendment was turned down for that reason.

For this issue we can see three alternative positions in the controversy around the preamble. The first saw a definite line of separation between religion and the state. Given the principles of freedom of expression and religious liberty, it was up to the individual to decide whether or not to be a believer, or to adhere to this or that religion. Therefore the preamble could not contain any references to God, and neither should the constitution establish links between the state and any religion. This argument of religion being an individual's private affair was extended during the main sessions of the Constituent Assembly to include the more radical claim that religion must be relegated to the private sphere. Many members declared that the need of the hour was to strengthen the identity of Indians as citizens of the Indian state, as opposed to being members of some community or religious group. Radhakrishnan's speech on the Objectives Resolution on 13 December, 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." A month later, G. B. Pant, speaking to the Advisory Committee of the Constituent Assembly proclaimed that the "individual citizen who is really the backbone of the state...has been lost here in that indiscriminate body known as the community. We have even forgotten that the citizen exists as such. There is the unwholesome, and to some extent, degrading habit of thinking always in terms of communities and never in terms of citizens."

Many of these proponents of the so-called, "no-concern secularism" were making the familiar argument that a state wanting to strengthen itself must encourage the philosophy of abstract individualism so as to weaken all associations in society other than itself. It can then replace these associations with itself as the locus of the individual citizen's identity. Secularism in this view meant the gradual weakening of the bonds of religion and their replacement with nationalism. It meant that the state must not recognise religion as a public institution. It was not just a question of religious liberty but of the establishment of state paramountcy. Religion was to be relegated to as small a sphere as possible so that the state could emerge as a modern leviathan.

The second position on secularism, exactly opposite to the first, was that no links between the state and religion should be permitted, not because this would weaken the state, but because it would demean religion. Religion, a system of absolute truth, could not be made subject to the whims of changing majorities by allowing the democratic state to have a say in religious affairs. Like the first, the third position—which can be called the "equal-respect theory of secularism"—also began with the principle of religious liberty, but held that in a society like India where religion was such an important part of most people's lives, this principle entailed not that the state stay away from all religions equally, but that it respect all religions alike. In this view, instead of distancing itself from all religions or tolerating them equiva-lently as sets of superstitions which could be indulged in as long as they remained a

private affair, a secular state based its dealings with religion on an equal respect to all religions. One of the main proponents of this view, K. M. Munshi, proclaimed that the "non-establishment clause (of the US constitution) was inappropriate to Indian conditions and we had to evolve a characteristically Indian secularism". Munshi said: "We are a people with deeply religious moorings. At the same time, we have a living tradition of religious tolerance—the result of the broad outlook of Hinduism that all religions lead to the same god. . .In view of this situation, our state could not possibly have a state religion, nor could a rigid line be drawn between the state and the church as in the US."

Both Munshi's and Ambedkar's draft articles of March 1947 on justiciable rights contained clauses referring indirectly to a uniform civil code, Munshi's proposal stated that: "No civil or criminal court shall, in adjudicating any matter or executing any order, recognise any custom or usage imposing any civil disability on any person on the ground of his caste, status, religion, race or language." Ambedkar wrote that the subjects of the Indian state shall have the right "to claim full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by other subjects regardless of any usage or custom based on religion and be subject to like punishment, pains and penalties and to none other." By 30 March, however, the Fundamental Rights Sub-Committee had decided to make the uniform civil code a *directive*, non-justiciable principle of state policy. In her letter of 31 March, Rajkumari Amrit Kaur emphasised the importance of the uniform civil code and called it "very vital to social progress".

2. The Hindu Code Bills

The passing of the Hindu Code Bills[5] acts as an example of how a particular institution with important implications for the discussion of equality and group versus individual rights, took shape. Having joined the bandwagon in the late 1940s, Nehru took up the subject of reforming and codifying Hindu law and turned it into a clarion call for social reform and secularism. However, as the political risks became apparent in the early 1950s, the initiative was stalled and temporarily dropped. When the Hindu Code Bills were finally passed in the mid-1950s the terms of reference had been altered, transforming what was initially supposed to have been a campaign for legal reform, a process of rationalising the legal system, into a grand project of modernisation where Hindus as the majority community were to set an example in the interest of building a secular society.

While the Hindu Code Bills opened up a healthy debate on social reform and set in motion important steps for the emancipation of Hindu women, the bills fell far short of what they were originally supposed to be, a stepping stone towards the enactment of a uniform civil code applicable to all citizens of India. It is posited that Nehru and the Congress Party realised it was not in their political interest to press for a uniform civil code, hence the matter was allowed to revolve around reforming

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[5] This refers to the Hindu Marriages and Divorce Act, 1955, the Hindu Minority and Guardianship Act, 1956, the Hindu Adoption and Maintenance Act, 1956 and the Hindu Succession Act, 1956.

retrogressive Hindu practices, and generating enough dissent and discussion to keep the process in a stalemate. If Nehru had truly sought to establish an institution that formally endorsed and upheld secularism, he ought to have thrown his weight fully behind the legislation establishing it as the blueprint for a future uniform civil code. Instead, the Hindu Code Bills came to represent a highly contentious and unfinished project, neither paving the way towards greater equality across communities nor truly facilitating Hindu social reform, given the numerous loopholes that came to be engrained in the legislation.

The long-term debate over the Uniform Civil Code is produced by the tension between two notions of rights in the fundamental rights chapter (Chap. 3) of the Indian constitution. The bearer of rights is both the individual, unmarked abstract citizen of liberal theory, as well as the collectivity—that is, the universal, as well as the particular. The former is the subject of Articles 14–24 which ensure the individual's rights to equality and freedom and the latter of Articles 25–30 which protect religious freedom and the cultural and educational rights of minorities It is from the latter that religious communities derive the right to be governed by their own "personal laws." Since these personal laws cover matters of marriage, inheritance, and guardianship of children, and since all personal laws discriminate against women, the tension in part three of the constitution is on one level a contradiction between the rights of women as individual citizens, and those of religious communities as collective units of the democracy. The state is in fact expected both to be the neutral arbiter between religious communities as well as the agent of social justice within communities.

The Hindu right claims that secularism in practice means the majority community surrendering its interests, while the state protects those of minorities. In other words, the argument is that the state has not delivered on its promise of abstract citizenship—minorities have retained their personal laws, the only Muslim-majority state of Kashmir has a special status within the framework of the constitution, and so on. Secular critiques of Hindu communalism have seen it as threatening the abstract citizen enshrined in the constitution with its assertion of "Hinduness". In fact, it can be argued that in this context the "secular" discourse and "Hindu communal" discourse occupy the same terrain—that of claiming to be the true protectors of the rights of the abstract citizen.[6]

Conclusion: A Transcultural Study of Citizenship

With the focus on Nehru as a transmitter of cultural flow, a survey of his ideas and understanding of religion and minority rights reveals the strong influence of British modes of thought. For example, in his mediations on Indian history, *The Discovery*

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[6] See Mahajan (2002) and works by Ashish Nandy (1985) and T. N. Madan (1987).

of India, where the Mauryan emperor Ashoka (c. 273–237 B.C.) is portrayed as the great protagonist of Indian unity and secularism, Nehru refers to him as "still beloved in India", which was true among Indian nationalists when Nehru was writing in the middle of the twentieth century. However, knowledge of Ashoka had almost vanished from Indian memory until the early nineteenth century and his "rediscovery" was mostly thanks to the way Ashoka and Akbar were presented in British textbooks, with the emphasis being on the fact that their policies had failed until they were renewed under the British.[7]

Drawing upon a history and historiography written by colonial rulers and having imbibed the heady atmosphere of socialism and fabianism in England, a young Nehru wrote in 1926 that he hoped the passage of time would "scotch our so-called religion and secularise our own intelligentsia," and that just as in Europe mass education had weakened the power of religion, so the process was "bound to be repeated in India."[8] His enthusiasm did not waver, and long afterward as prime minister he gave unequivocal support for secularism, not just as neutrality, but also as an ideology. Writing to leading congressmen in 1954, he spelled out that secularism was a creative force which, while permitting religious freedom, prevented religion from interfering in the great task of nation building. But secularism meant more than religious freedom. "It conveys," he insisted, "the idea of social and political equality."[9] Like Marshall, Nehru envisioned that an expansion of civil, political, and social rights would lead to progressive integration of the modern Indian citizen.

However, as Nehru was to discover during his political career, and which this chapter has also attempted to highlight, figures like Nehru do not act in a vacuum but are themselves part and parcel of a path-dependent process that to a large extent preselects the range of resources and strategies available. In the case of India, the construction of categories, such as the Hindu and the Muslim, were given political resonance by the colonial state, and the vision of universalist ideals of social justice and equality were inherited as part of Britain's experience with liberalism, socialism and imperialism. As a result, a policy choice like the Hindu Code Bill, which will forever be a central ingredient in the discussions for a Uniform Civil Code, needs to be analysed in light of (a) the asymmetries perceived and institutionalised by colonial rule, and (b) the particular social *imaginaire* underlying Nehru's modernisation package. Both these dimensions come to the fore during the early 1950s, a crucial period for transition in India's political development, and they are manifest in the vision and strategies underlying the political discourse and policy making of the time.

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[7] This is the essential theme in the most influential of all textbooks on Indian history, Vincent Smith's 'Oxford History of India', first published in 1919, but republished and reedited many times.

[8] Quoted in Mushirul Hasan, 'Nationalism and Communal Politics in India' (New Delhi: Manohar, 1991), p. 285.

[9] Quoted in Granville Austin, 'Working a Democratic Constitution: The Indian Experience' (New Delhi: Oxford University Press, 2000), pp. 55–78.

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