Disenchantments of Secularism: The West and India

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Purushottama Bilimoria

2.1   Introduction: Taylor's polysemy of Secularity

In his tome *The Secular Age* (2007) Charles Taylor sets out three senses of secularism
(French, *laicité*). The first of these pertains to the separation of 'state' (the political,
economic, educational, bureaucratic institutions and social organizations governing
the public sphere) from the 'Church' (the spaces marking the broadly cultural and
faith-spheres of believers, or the adherence to God or predicated on some notion of
ultimate reality). This is the predominant ideology of the modern capitalist and
post-industrial West, Western Modernity and much of postmodernism as well. It is
our 'secular age'. Thus a secular state must base its laws and political decisions on
reasons and the communicative apparatus of rationality that everyone could accept,
irrespective of their particular ethical or religious conceptions (Baynes 1998).

The second, somewhat hackneyed sense of 'secular' in Taylor, adverts to the
compatibility between 'the emptying of religion from autonomous social spheres'
and the fact that a vast majority of people still believe in God, and practice their
religion vigorously (Taylor 2007: 2). Whereas in the earlier, excarnated, secular age
all goals beyond human flourishing were eclipsed and contained within immanent
secular humanism and the absolutes of modern science, there is here a personalized
openness to those very transcendental possibilities; whole communities might find
it tempting. The United States, Taylor notes for his prime example, is striking in this
regard: 'One of the earliest societies to separate Church and State, it is also the
Western society with the highest statistics for religious belief and practice' (Taylor
2007: 2). And religious belief, we might add, that exceeds Judeao-Christian
predilections in the peculiar 'melting pot' version of multiculturalism. Buddhism is
embraced widely in urban regions across the continent, while Islam boasts a

P. Bilimoria (✉)
Philosophical, Historical and Political Studies, Deakin University,
Melbourne University (Australia), University of California @ Berkeley
e-mail: purushottama.bilimoria@deakin.edu.au

formidable presence among its immigrant communities, as do Hindu-Jain and Sikh cultures among transnational South Asian communities. 'Here belief in God might go unchallenged and is indeed unproblematic. The majority of Muslim societies and the milieu in which the vast majority of Indians live are given as conforming to this sense' (Taylor 2007: 2).

The third sense of 'secular' for Taylor, by contrast to both above—and more significant for Taylor's reformist narrative—registers a shift toward a space where religion is 'understood to be one of the options among others, and frequently not the easiest to embrace' (Taylor 2007: 3). And this is how Taylor encapsulates the secular in the third sense:

> …the change [shift] I want to define and trace is one which takes us from a society in which it was virtually impossible not to believe in God ['or the transcendent'], to one in which faith, even for the staunchest believer, is one human possibility among others … Belief in God is no longer axiomatic. There are alternatives. (Taylor 2007: 3)

This third sense of the secular Taylor christens as '*secularity*': it concerns the *conditions of belief*. Secularity in this sense 'is a matter of the whole understanding in which our moral, spiritual or religious experience and search takes place'. It is 'a condition in which our experience of and search for fullness occurs; and this is something we share, believers and unbelievers alike' (Taylor 2007: 19). The search for fullness takes our disenchanted age beyond the closed world-perspective to the higher, transcendental reaches beyond human flourishing and an ontological grounding of morality; it is then the 'new context in which all search and questioning about the moral and the spiritual must proceed' (Taylor 2007: 20). Hence, Taylor is comfortable in concluding that a society would be deemed secular *qua secularity* or not, 'in virtue of the conditions of experience and search for the spiritual'. And while in passing he mentions that the case of India is correlated better (perhaps historically at least) with both the latter senses of being 'secular', but not with the first (Taylor 2007: 4), in the case of the West, 'the shift to public secularity has been part of what helped to bring on a secular age in the third sense'. One cannot avoid noticing (if a pun be permitted) the slight circularity in the argument and certain debatable presuppositions, not least of an irrepressible human need to embrace *external* transcendence for moral and spiritual goals beyond just human flourishing. Even so, the overall thesis holds largely true in the case of modern India as well as in modern Western nations.

I applaud Taylor's endeavor toward opening up the hitherto rather closed taxonomy of secularity in modern-Western cultural monolingualism since the Enlightenment and his quest for a more robust and contemporaneous perspective that takes into account both the historical experience of humanity with its divergent stories about religion and the social world, and the inexorable 'return of the religious' in recent decades, whose reverberations are felt more in the media and certain cloisters within the academe than in the broader intellectual discourses of the West (Singer 2011). Nevertheless, in what follows, I wish to contest Taylor's still profoundly redemptive and evidently Christian/eschatological construction of the reformed secularity he wishes to advocate or prescribe, and more importantly, the narrow representation of the supposed case of India, that he mentions *en passant*.

In what follows, I will problematize the senses in which India could be said to be secular or not secular, or the kind of secularity that afflicts the Indian condition, particularly in the shifts that have occurred after the imperialist *philosophes*, such as Hegel and Marx and Weber, cast a Eurocentric (Enlightenment) spell on India, along with the interventionist inroads made by British/European colonialism, that unsettled an established pattern of the relationship between the sovereign instruments of governance and religion. The imposed discourse(s) of secularism in any and all of Taylor's senses have only helped to, as it were, muddy the waters and has left behind in the postcolonial landscape a troubling legacy from which the Indian society has barely recovered and with which the modern nation-state continues to grapple. If not that, then it becomes entangled in ambivalent and hybrid imbroglios, such that we now have adherents of God Rama protesting that India has embraced an ideology of 'pseudo-secularism' to the detriment of its national and cultural harmony (Bilimoria 2009). The battle-line is drawn not just between secularism and spiritual transcendence, but it cuts in multiple vectors across religions (of which there are more—and claiming more adherents—than in all of the US, Europe and the rest of the Western world put together). The situation and challenges from and for secularism facing the Indian, post-Gandhian experiment are so fraught with dilemmas and discursive instabilities that it is worth examining this scenario—if only so that the West may pay heed to its own by-gone Orientalist errors and be cautious before hurriedly coveting or expropriating religion in response to the discontents of secularity. There are lessons to be had here.

2.2 The Eurocentric Frame of the 'Secularisation Debates'

I begin with a thesis recently developed by the postcolonial Sikh scholar in Ann Arbhor, Michigan, Arvind-Pal Mandair (2010). Mandair attempts to connect

> the operations of an imperialist technology in a past historical movements (specifically during the encounter between Britain and India) with its legacies in the present, namely, the crisis of secularism and/or the 'return of religion' into the heart of the Indian nation-state and the projects of the South Asian diaspora.(Mandair 2010: 13).

He explores these legacies via a reassessment of the role of religion and language in the formation of both the imperialist and nationalist ideologies, specifically in the work of monotheism and monolingualism, considering the two to be parts of a single process that he tellingly dubs as '*mono-theo-lingualism*' (Mandair 2010: 13).

Whole Western academic disciplines are committed to the idea that the phenomenon called 'religion' has been constitutive of the cultural and philosophic frame of the West, notwithstanding the different moments through which a certain metaphysical continuity has been manifest: the Greek (*onto-*), the medieval-scholastic (*theo-*), and the modern humanist (*logos* or logic)—hence, 'ontotheological'. Indian (not least postcolonial) theorists in their critique of secularism—presumably in deference to the letter of the (European)

Enlightenment—however maintain a stricter separation of the religious and the (secular) state; while in the post-Enlightenment (to the post-Modern) era the lines are somewhat more blurred between religion and secularism because they 'inhabit other spaces' in the Humanities and Social Sciences. A genealogy is traceable from colonial Indology (scholarly-comparative praxis focused on India and things Indian) to neo-colonial religious reform movements, that demonstrates that the concept of religion used by Indologists and Indian elites were in the period in question affected by Western philosophy, theology, and politics. And its genesis arguably goes back via Marx and Weber to Hegel. The myth underscored was that politicizing or deprivatizing religion will inevitably lead to catastrophe, that religion is the cause of violence, therefore the liberal state is needed to guarantee the protection of its citizens.

   In the construction and perpetuation of Indian secularism, Hegel both perpetrated this essentialist myth of secularism and at the same time muddied what was essential to an understanding of the very traditions of India in question. Hegel recognized the importance of religion in India's long cultural history and the production of its thinking, literature, philosophy, magical practices, social institutions; however, because the religions of India were not grounded nor guided by the self-awareness of Reason (*Vernunft*), it lacked the maturity of the apparatus enabling self-determination or freedom in political and civil life. Hegel was greatly troubled by the richness of India's religious life and its representations, though a little less troubled with Hinduism's philosophical abstractions. Perhaps this shows the prejudices of his time, of the Christian mind that abhors any presence of the pagan, and of the scholarly type that favours the abstract concept over the seemingly irrational and fantastic appearances of popular religion, myth and the *cultus*. This is a story of how 'religion' was both invented (for the 'Other') and in the same moment gerrymandered (Mendieta 2001). For India, Hegel felt that these two poles characterized the whole of the cultural matrix but were articulated in such a way that no real resolution was possible on the Indian terrain alone. Such a resolution of opposites was left to those cultures further along the developmental and, it seems, 'evolutionary' sequence—those that the descendants of the Aryans in the European continent were bequeathed with. The theoretic implications and impact of such a philosophy of history/culture as Hegel proclaimed through his voluminous opus on non-Western people's perception of the cultural *alterity*, and on the constitution, internally as it were, of their own identity, location, and *topoi* vis-á-vis the West (which one might call 'internal orientalism') have been ominous (see Bilimoria 2011).

   This impact, as Mandair argues (2010: 121), is endemic in the modern Indian espousal of secularism that came via the Jena Romantics, Indologists and the native elite alike, persuaded by Hegel's ontotheological schema, the epistemography (Spivak 1999) of power and progress (2010: 155). It was left to the colonial administrators in the subcontinent (as elsewhere) to carry through the project of 'the formation of a modernist identity for Indian elites, an identity that is, paradoxically, religious in essence' (2010: 112). One might say, these came to form a peculiarly

Indian form of secularism that is not mute on matters pertaining to religion—even to the highest reaches of metaphysics.[1]

Before moving to examine the Indian scenario I wish to touch on the Western modernists who I named in the Introduction as exemplifying the influential neglect of non-Western experiences of secularism. Habermas for one; and I will also touch on the enthusiastic avowal of certain select religious tropes in Žižek's reformed post-Left-Marxist-anti-multicultural revival of the rebellious imaginary of Jesus (the 'non-Christian' Christ): 'to Hell with the Buddha (even 'Europe's Buddha')' (to echo the Nietzschean prejudice) (Bilimoria 2008).

Like most modernist philosophers, Habermas seems completely oblivious to the existence of non-Western contestations between modernity and religions, except for some passing reference here and there, especially in his attempt to countenance the rise of fundamentalism globally. While he acknowledges

> the rise of religious fundamentalism, the return of religious law as an alternative to secular civil law, Europe's *Sonderweg* with regard to religion and politics, 9/11, and issues relating to naturalism such as biotechnology in the field of genetic engineering, (Duvenage 2010: 344)

the preoccupation is entirely with the challenges faced by Western modernity. In his more recent book-length work on *Between Naturalism and Religion Philosophical Essays* (2008) Habermas's main concern seems to be primarily focused on a defense of 'soft' naturalism in which he invokes Kant's more conciliatory approach in his philosophy of religion to 'assimilate the semantic legacy of religious traditions without effacing the boundary between the universes of faith and knowledge' (2008: 211). As a prefatory comment to this project, he observes: 'Nowadays religious fundamentalism, which also exists within Christianity, lends the critique of religion a regrettable topicality'. This is really a veiled allusion to extremism of political Islam and evangelical Christianity; but there is no reference to the convoluted politics and the West's complicity in the Middle East, especially on the rise of modern Zionism in Israel (Eisen 2011). Still, Habermas goes on to offer an interesting insight. 'Nevertheless', he says,

> the focus of attention in the West has in the meantime shifted. Here, in the European part of the West, the aggressive conflict between anthropocentric and theocentric understandings of self and world is yesterday's battle. Hence the project of incorporating central contents of the Bible into a rational faith has become more interesting than combating priestcraft and obscurantism. (Habermas 2008: 212).

Here Habermas finds some solace in Kant's project of predicating the principle of moral law, laws of duty and right on practical reason and the kingdom of ends. Habermas also points out that Kant never did abrogate the role of religious

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[1] Although we can't pursue this here, we note that this would not be the first time in the history of the Indian civilization that a recourse to the secular in the moral and political discourses of sovereign reinvigoration has been afforded: this happened with the Buddha who stood up to the excesses of Brahmanic priestly hegemony (Bailey and Mabbett 2008), and in the *Arthashastra* of Kautilya (the presumed Indian Machiavelli) (Bilimoria 1998, 2007).

teachings on morality, especially in the exemplary lives of prophets, saints, monks, and so on, as distinct from the authoritarianism of the ecclesiastical orders, in providing practical reason with its 'store of suggestive and inspiring images', in short, a needed epistemic stimulus for the postulates with which it (practical reason) attempts to recuperate 'a need articulated in religious terms within the horizon of rational reflection'. We know that Kant tried to justify a continuation of some modicum of religious faith as '*fides*' (from which we get fideism) within the limits of reason. Indeed, he wanted to overcome metaphysics in order to make room for faith. But there is no reference to any of the world's religious traditions in Kant, or in Habermas, that might augment the task of practical reason in its alliance with faith. In fact, Kant is rather dismissive of and disparaging of the religions of the Tutsi, Hawaiians, Hindoos and Sino-Tibetans too in rather racist terms as the people belonging to species whose reason is not yet cooked, is rather 'raw humanity', looked upon as 'immature' with only the more primitive or aboriginal sensibilities (see Bilimoria 2002a, b; 2013). Simply lost to Habermas, or beyond his eurocentric purview, is Gandhi's discourse ethics and critique of modernity, which while not based on a strict adherence to Enlightenment rationality, has had a far wider and profound universal impact in the lived world than Habermas' communicative ethics is likely to have (Gupta 2009).

Agnes Heller once said that the Hegelian adventure of World Spirit was not consciously meant to be a fiction, but neither was it meant to be the reconstruction of facticity. One must wonder then what it was meant to be? A script for a dinner party? Clearly, such grandiose philosophical histories become weapons in the hands of unscrupulous colonizers of one sort or another, and while Hegel and Schopenhauer may have fallen out of favour in modern or post-modern scholarship their ghosts still haunt the modes of discourse within the academy and outside it, in the underside of modernity and in the phenomena of 'Orientalism' (external and internal) and neo-colonialism (Dussel 1996).

And finally to Slavoj Žižek, who seems to have embarked on the path of resurrecting the Hegelian rebirth, despite (or perhaps in cohorts with) his commitment to Left-Marxist anti-capitalist anti-liberal-democratic-multculturalism and intensely postsecular and political, even revolutionary ideals. How so? By bringing the political into the erstwhile formulations of Cartesian subjectivity as the common ground (commonality) for the universal. Of course, neither subjectivity nor the universal are as they stood in Descartes' *cogito*, the subject, and Hegel respectively. Rather, in contemporary discourse they appear to be stripped of their excessive, repressive and exclusivist paradigms, which has led to the rejection of the unified transcendental Subject (God, Man, Nation, etc.). The universality instead is a void proliferated by decentered multiple subjectivities (gay, feminine, ethnic, religions) corresponding to the theoretical movements of postmodernism, postcolonial theory, and their ideological compliment, New Age Gnosticism—all of which he finds unpalatable. 'Žižek confronts these false alternatives by using Lacanian psychoanalysis to reappraise the standard narrative of German idealism, mainly of Schelling and Hegel' (Mandair 2010: 398). The subject in what Žižek calls its 'night of the self' is a paradoxical creature, not without self-contradictions and inner tensions, etc.

It follows that if that is what the particulars are constitutive of in the world/void then there cannot be a conception of the universal of human subjectivity, other than the purely abstract. 'Rather, universality is a site of unbearable antagonism … or minimal difference with itself. So subjectivity becomes a ground play of the political and awaited univeralization' (Mandair 2010). And here, like Habermas, Žižek does not rule out the role of religion; indeed in the postsecular ideology it is a necessary dialectical force to be reckoned with. However, the 'return to the religious'—the phrase is something of a cliché now—is cast not in terms of the old authoritarian, orthodox, God-centred, anthropocentric, Church-decreed religion of faith and revelation. Rather, it is a matter of the kind St Paul discovered on the road to Damascus; and here he follows in the footsteps of Tsow Bidou who has also written approvingly on St Paul. At a key-note address to the American Academy of Religion, Žižek provocatively aligned Jesus not with the Incarnational divinity within the Trinity (the possible polytheism aside) but with the hero of the Young Marx and Engels, the frontline fighter and social struggler dear to all Marxists-Leftist revolutionaries: 'That is the Jesus I would put my rational faith on!' (Žižek 2009). Here is Žižek's theo-humanist confession in more concise terms, discoursing on the true nature of dialectic:

> And that is why I have always liked the radical eschatological Christian vision whereby the idea is that when humanity fights for salvation, for good against evil, then this is something that not only concerns humanity but, in a way, concerns the faith of the universe and the fate of God Himself … The whole point is to historicize the so-called eternal questions, not in the sense of reducing them to some historical phenomenon but to introduce historicity into the absolute itself … And here again, we are back to Hegel and Schelling, because if there is anything to learn from German idealism it is precisely this dialectical attitude. This can also be found in Heidegger and the perspective of how the disclosure of Being requires the human in the sense of *Dasein* (being-there). That is to say, the contingent humanity is at the same time the only site of disclosure of the absolute itself. (Žižek and Daly 2004: 88–89)

What Žižek knows of and says about Europe's 'Other' is derived from his Occidental predecessors, Hegel, Nietzsche, Marx, Husserl and Heidegger in his references to the 'pre-modern societies' and what is lacking in them and why their anti-colonialism is not as fantastic an achievement as critiques of Orientalism have assessed it to be. So Mandair asks rightly: 'But does Žižek not make the same move in his effort to reconstitute a "progressive/leftist Eurocentrism: out of Christianity's self-sacrifice?"' (2010: 409). The secular or 'secularisation' that is born of a 'disenchantment of the world', it seems, is not without its own disenchantments (Warner 2010).

2.3   The Complex Indian Experience of 'Secularisation'

I want now to thus proceed to put to test, demonstrate and elucidate the above argument—vis-à-vis Taylor's programmatic of secularity as it applies to the Indian case—by analysing the troubled relation between the majority Hindu and a minority Muslim population respectively on the question of the role and function of religion

and religious community-law in the public qua political domain of a nation whose Constitution (in its Preamble at least) declares it to be a 'secular, socialist, democratic Republic' (see also Bilimoria 2006).

The continuing presence of the Muslim in India is a symbol of the 'failure' of the Indian nation. That presence is a sign of a lingering disease, a psychotic split to be precise, in the discourse of Indian nationalism between the 'secular' and the 'properly Hindu'. This sense of failure is what Partha Chatterjee (1993) calls an unresolved contradiction between the (post)colonial nation's (European) enlightenment project and its nativist consciousness of difference. That difference is inscribed in the discourse of communalism which was introduced during the Raj and used by the colonial state, then by the Muslim League; and the major Indian nationalist factions carried it into independent India to put limits, if not brakes, on the dominance of secularism. The paradox is that there has been at least two senses of secularism operative within the Indian nationalist discourses: and both have been seen as the *cause célèbre* or the failure of the Indian nation, while both claim to represent the 'true nation'. More pertinent though, it is the hermeneutics, including an intervention in moral governance and juridical processes, that puts the respective claims into practical test in *real politik*. A fledgling Hindu nationalism, apprehensive of its own marginalization under both the colonial state and, later, the secular nationalist's stigma of Hindu communalism, would place itself in the interstices of the variant political nuances, claiming that both have reached their limits and are therefore 'pseudo' (*banawati*), meaning 'pretend only', and hence hides beneath its sanguine crust a civilizational failure (Bilimoria 2009).

Put in another way, Hindu nationalism turns the coat or *dhoti* of secularism inside out, and points to the obfuscation over the precise interpretation of what this entails in the Indian context—and this is nowhere more apparent than in the pervasive polemic of 'pseudo-secularism' that the Sangh Parivar ('family organizations' or network of Hindu rightist groups)[2] and in particular the Bharatiya Janata Party leadership have all too readily utilized in criticizing the nation's serious lapses in not being able to deal with its 'Other'. But this polemic is made possible to a large extent by the inherent ambiguity in the very concept of 'secularism' and, more significantly, its apparent failure in the Indian context. This claim is not original to the Hindu right or the ideologues of a strident Hindutva. The version of secularism that has failed, as scholars such as Ashis Nandy, TN Madan, Mushirul Hasan, and Pratap Banu Mehta (2010) have argued, is one that seeks to distance religion and collective

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[2] 'The Sangh' (comprising at the helm the Rashtriya Swayam Sevak Sangh (RSS), a breakaway from the Hindu Sabha, was founded in Nagpur, Maharashtra, in 1925. Its ideologues are VD Savarkar (who gave the term 'Hindutva'), KB Hedgewar, Balasaheb Deoras, and MS Golwakar, succeeded by Rajendra Singh, who launched the movement to which were inducted Jan Sangh (now defunct), the Vishwa Hindu Parishad (VHP), Kar Sevaks, Bajrang Dal, Shiva Sena and a splintering of various saffron shades. One of its main activities from inception has been to impart para-military training and ideological indoctrination (Bacchetta 2004: 6). It founded two political parties: Jan Sangh (now defunct) and the Bharatiya Janata Party (BJP), and has representations in the other major parties (NDA), with infiltrations into Communists and Muslim factions, ADMK, and other parties in the South.

religious aspirations from the political structuration and legal processes of a society in a multicultural and pluralist environment (Taylor's first sense moderated by the Nehruvian attitude). This was an impossible project for India. As Mushiral Hasan (1994: 26) observes: 'Delinking of state and religion remains a distant dream; secularisation of state and society an ideal.' But secularism, in the nuances taken on board by the Constitution makers and markers, adverts to a healthy diversity and harmony of all religions, *ceteris paribus*.

What the term 'pseudo-secularism' undergirds then is a convoluted attack on both nuances; and to an extent rightly so. The former nuance—a legacy of the Enlightenment—is being seriously undermined in world politics; and it was never true of pre-British India and much of the Christian and Islamic principles of governance The Indian society is basically religious, historically and continuing into the vanishing present. The latter nuance is shown to be rather weak in the face of real challenges, short-changing of religious rights, etc., in the state's agenda for tighter political control and an uneven economic liberalization. In the climate of communalization, any group in control or through certain manipulative machination could engender a situation of insufferable compromises to the religious freedom, rites and rights of another group, while at the same time placing the onus of the Constitutionally-nuanced project of secularisation on the doormat of the weak-kneed state which for its part abrogates the executive responsibility of reining in harmony and culture of toleration. As I will demonstrate, this is precisely the argument used in the show of force with which the charge of 'pseudo-secularisation' is meted out by the ideologues of Hindutva. They are the ones on the losing end, the slippery slope of the secularizing promise, since it is their religious freedom that has been severely compromised. Appeasing the minority communities is communalism abetted by Nehruvian 'pseudo-secularism' (i.e. reneging on the state's commitment not to marginalize nor for that matter abet and patronize any one religion over another, as guaranteed by Articles 25–27).

The idea of secularism that prescribes a complete separation of church/religion and state had much appeal in the elite fragments of the nationalist freedom movement, for which Nehru has been accorded most credit (though in fact, part from licensing favoritism in the industrial planning agenda, Nehru was a tolerant secularist). The Constituent Assembly, on the other hand, was all too cognizant of the diversity of the highly politicized religious communities, and so its recommended draft Constitution reflected a series of accommodations and compromises on the design of the secular state and the normative order. It reasoned that a state can in principle be secular but its disposition towards the society made up of divergent religious community could be one of (principle #1) toleration, regulatory neutrality and reformative justice (principle #2) (see Dhavan 2001: 311). And a corollary to this would be a careful calibration of an active rather than a passive principle (#3) of 'religious freedom' which covers a range of liberties, including the right to beliefs, rituals, religious institutions, and non-discrimination on grounds of religion, race, and gender. Nevertheless, on substantive issues, such as for example the extant and manner of religious reform, social welfare, caste justice, gender issues, education, the Constitution chose to remain silent or 'neutral' and at best relegated these to

either the perfunctory articles under the Fundamental Rights or to the unenforceable Directive Principles. Still, with Indira Gandhi's addition to the Preamble, ironically, of the very hitherto absent place-marker (with the term) 'secular', there could be no argument, in principle, that the nation was ready to make a firm commitment to an inclusive and mutually tolerable co-existence of different faith-traditions, thereby affording respect to the Articles in the *Adhikarapatra* [Bill of Fundamental Rights, Constitution of India, adopted 1950, with Amendments] that enshrine and protect the right of each religious community to profess and propagate its own faith and, by being free to establish places of worship, educational institutions and self-sufficient procedural means, realize its own values and aspirations.

It is here that the Hindutva Parivar and political cohorts have focused their attention in isolating a single group as the cause of this failure, and are grieved that, even as the majority populace, its own religious rites/rights, representation, preferences and needs are not being honoured by the secular state, nor respected by the minority community (or that there is some kind of collusion between the two, as in the heydays of the Congress rule, the Communist interlude, hybrids in the South, and so on).

Even more than the political shifts, or stagnation, or back-firing, one platform on the national scenario that is likely to sustain and feed the continuance and re-growth of the Hindutva ideology is the silent symptom in the nation's alleged pseudo-secularism, or its absence, under the Uniform Civil Code (UCC). The question of common civil law covering all citizens doubtless occupies centre-stage in any discussion of community identity or gender justice (Zoya Hasan and Ritu Menon 2005: 7), but it takes a more saffron shade under the *diya* (lamp) of Hindu nationalism. Hence you had Anglo-Muhammandan Law and Anglo-Hindu Law; and Christian and Parsis retained their own Personal Laws.[3]

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[3]A brief note first on the genealogy of Personal Law, what is also often referred to as religious-community law, more broadly. Personal Law in India constitutes a legacy from the British Raj (since Warren Hastings actually) when a hybrid system of Law based on an egregious bifurcation of extant mores and customs into the 'public' and 'private' was instituted. Public codes governed fairly uniformly the criminal and certain civil codes, in commerce, public safety and security and services and welfare, and so on. Laws applicable to the private sphere of morality, which largely govern what is nowadays called Family Law, but inclusive of property rights within family, were brought under Personal Law (Bilimoria and Sharma 2000). Personal Law would then govern marriage, fiduciary partnerships, divorce, maintenance, inheritance, succession, and adoption. The jurisdiction of Personal Law remained strictly within the community's own continuing customary, scriptural, communal and traditional legal practices. The legislature and civil courts would tread on this institution with utmost care and caution, and their jurisdiction was restricted to only those matters or disputes that were brought under the community's provisions, dispensation or exemption within Personal Law (property distribution in an extended family upon death of the father or husband), or litigated under the Criminal or Penal Code where there is a real threat to the life and livelihood of an individual within a family dispute (e.g. enforced vagrancy following a divorce or denial of coparcenary entitlement). Hence there was the Anglo-Hindu Law for Hindus, Anglo-Mohammad Law for Muslims, and Christian Law for Europeans and Anglo-India Christians. Similar transformations of indigenous law into specific legal discourse that ended in a portmanteau of religious-legal practice occurred elsewhere, in British-governed Islamic colonies as well, e.g. Yemen, Turkey.

Along with the Penal Codes of the previous two centuries this system has survived with some modifications into the twentieth and twenty-first centuries and it has been a source of much anguish, strife, and debate in post-independent India. Personal law of Hindus have been largely codified, i.e. traditional laws are reconfigured in the light of secular humanitarian standards via the so-called Hindu Code Bill (1955–1957). Thus the Hindu Marriage Act, 1955, reins in prohibition against the practice of bigamy. The Hindu Succession Act gave widows the right to absolute maintenance, and daughters the right to inherit. Family courts had also been set up. While the Hindu Code eased the pressures on divorce and marital difficulties, property rights and inheritance among Hindus, it created other barriers and difficulties—Ambedkar resigned from Parliament in his disillusionment or Weberian disenchantment—for it did not override the proclivities of caste, patriarchy and race under Mitakshara law. For example, under Hindu law, sons can claim an independent share in the ancestral property, but the daughter's share is based on the share received by the father. Hence a father can effectively disinherit a daughter by renouncing his share of the ancestral property, but the son will continue to have a share in his own right. Additionally, married daughters, even those facing marital harassment, have no residential rights in the ancestral home. The Code also remained ambivalent over issues such as the inheritance rights of tribal women, copacenary rights in matrilineal communities, widow re-marriage among certain caste Hindus and so on, not to mention being unable to weed out the practice of sati, dowry, bride harassment, child marriage, and continuing bigamous practices among Hindu men, and a few other anomalous remnants from the medieval times. And just who counts and does not count as 'legal Hindu' is also a matter of some debate: should the Code apply unequivocally to Sikhs, Jains, Buddhists, and tribals (such as of Nagaland) without exemptions as an after-thought? Careful case studies have shown that Hindus, particularly in rural area, remain largely ignorant of the Hindu Code Bill or the Special Acts and continue to follow localized legal traditions, such as Mitakshara, Deobarg and so on. The State for its part also fosters patriarchal relations in negotiating political power and global capitalism (Basu 2001: 180). Hence the tension between 'tradition' versus 'modernity' cuts both ways, and it does not augur for a movement toward a sanguine common code. It was the Hindu nationalists and secularists who foiled many opportunities to effect comprehensive gender equity on the grounds of preserving patriarchy (Parashar 2002; Basu 2001: 164).

Nevertheless, in the eyes of the Hindu nationalists, Hindu Personal Law is far ahead for its time. It is much secularized and this reformative feat has been achieved indeed at almost a 'civilizational' cost, implying—and here is the rub—that minority religious communities continue to enjoy the glories of their own archaic and unsecularized Personal Law. And the secularist vote-bankers support, in particular, the Muslim and Christian through a forged hermeneutic of the Fundamental Rights, ignoring the mandate of the Constituent Assembly (Article 44 under the Directive Principle) wherein it is decreed that the Indian 'state shall endeavour to secure for the citizens a uniform civil code'. It must be emphasized, however, that this non-juridical directive does not say the State should univocally legislate or enact the UCC in the fashion of Justinian Roman Law or the Napoleanic Code, but through

gradual reform and initiatives undertaken by the communities concerned. As we see with the Hindu Code Bill, this is a step in that direction, but codification, and specially under a universalist strain—that is, locating a common denominator in terms of justice and equity, across all religious communities—may simply be consolidatory rather than reformative 'on the ground' (Dhavan 2001: 317).

Returning to the Hindutva imagined charge sheet, the claim is that Personal Law of Muslims and Christians and Parsee is a system alien to the majoritarian ethos and the larger trajectory of nation-building: a unified nation with a common code. And why should the Hindus alone have to bare the burden of the regulatory and reformative agenda under the watchful eyes of the secular state, bent on secularisation every aspect of Hindu faith and life, while the Muslim is exempted and is a willing claimant to the Constitutional license to continue with their own religiously sanctioned social practices, customs, and laws?

Indeed, this sort of qualm had reared its head quite a few times, in the Maha Sabha assembly, in the writings of Savarkar and Golwalkar, with the passing of the Muslim Sharia't Act in 1937. It had exacerbated the debate in the Constitutional Assembly on a three-way divide, between those who, like the self-proclaimed leader of the so-called 'untouchables' (since re-termed as 'Dalits') Bhimrao Ramji Ambedkar, desired a uniformity of codes on a rigid platform of secularism across all communities—religious caste, non-castes—and those like Nehru who while they desired uniformity of codes thought India was not developed enough to adopt such a fully-secular judicial system, and in any event it is better to reform Hindu Personal Law and worry about the minorities later. And worry they did.

The Sangh's most explicit and vociferous stance on Muslim Personal Law (MPL) that propelled a campaign for UCC, surfaced in the aftermath of the famous 1985 Shah Bano case. Here a 75 year Muslim woman's petition for increasing the amount of maintenance from her ex-husband was upheld and judged in her favour under the Section 125 of the Criminal Procedure Code that prevents vagrancy due to destitution, desertion or divorce. The husband's argument was that the claim is in violation of MPL provisions as inscribed in Islamic law. He provided evidence from statements made by the MPLB (All India Muslim Personal Law Board). In the landmark Apex Court judgment, Justice Chandrachud pronounced, presumably, *obiter dicta*, that the judgment was consistent with Qur'anic injunction (he cited two verses from the Qur'an) in respect of the right of a woman to be properly maintained by their divorcing husband. The bench also remarked on the desirability of moving towards a common code.

There was a nation-wide uproar. While progressive Muslims declared it was consistent with the Qur'an, the conservative Muslim orthodoxy was up in arms, for this beaconed the death of MPL. Feminists and progressives, communists and hard-core secularists welcomed this as a step in the direction of women's rights (Bacchetta 2004: 122), and they unwittingly banded together with Hindu nationalists to attack the principle of communal personal law itself, calling instead for uniform civil code, which the Muslim community remained opposed to. The ulema issued a fatwa against the Apex Court's judgment and the then Prime Minister Rajiv Gandhi panicked. Opposing the judicial verdict became the cornerstone of his policy of

appeasing Muslim clerics who, he believed, controlled minority votes. He did not listen to the most rational Muslim voice in his own Parliament in support of the judgment, and instead responded by hurriedly passing the Muslim Women's (Protection of Rights on Divorce) Bill, to 'specify the rights of Muslim divorced women at the time of divorce' that effectively barred the Muslim women from access to the Criminal Procedure Code for redress after divorce. Under the Bill, a modern woman has to bring her case and grievances under MPL, unless her marriage was under secular civil code. A non-converted Hindu woman married to a Muslim man in a *nikah* ceremony and divorced would face the same constraints.

The Hindu nationalists were incensed at the retrogressive intervention by the state on what was a judicial pronouncement to circumvent MPL. As Bacchetta notes:

> Although they took the same position as progressives and feminists their underlying motives differ(ed) sharply. The progressives and feminists sought to defend women's rights, and they favoured the enactment of a secular uniform civil code. The RSS's [Rashtriya Swayam Sevak Sangh's] motive was to divide Muslims along gender lines, and to use Muslim women to denigrate Muslim men. (2004: 123)

And so they played the card of majority-minority relations and identity politics. In the 1990s the political wing of the Sangh, the BJP, took up the enactment of UCC as one of the three agendas for the national cause: the 'ideological mascot' of Hindutva in achieving Ram Rajya (Hindu Golden Age). As late as 2004, the BJP remained committed to the enactment of a uniform civil code, but with a slightly altered rationale: 'primarily as an instrument to promote gender justice'. But 'social and political consensus has to be evolved before its enactment'. Overall, there has been no real change in the BJP's stance on the minorities. A further anomaly that has gone unquestioned in the Parivar stance, and especially the mechanizations of BJP politics, is the precise template for and contents of the prescribed UCC, the manner in and means by which it is to be promulgated (if not imposed *ab extra*), and their position on the rights of religious communities balanced against rights and equality of citizens, equal respect and religious liberty of all religious communities, and civic equality of minorities, Constitutionally protected.

It is palpably clear that the Hindu nationalists respond in part to the Muslims when they allow themselves to be used as vote-banks by the established parties, or when they evade the imperative of Hindu populism by playing up the issue of minority rights and trumping the juridical avenues opened up to them post-Shah Bano judgment and the now mollified Muslim Women's Act. Muslims fall in-between the wedge of two strands of nationalism: secularist and Hindutva. In that regard, the protagonists of the latter continue to charge the nation with perpetrating the pseudo-secularist agenda, when in fact it is Muslims who have been caught up in the agenda from both ends. Muslims cannot be part of the cultural nationalism as the definition of Hindutva does not permit it, how can then the political machinery bend backwards to accommodate their inclusion in the Ram Rajya nationalism?

My claim here is that keeping the issue in obscure terms and juxtaposing it to the polemics of pseudo-secularism is a deliberate strategy to gain support of the majority

community and to forge alliances with conservative parties, especially in the North and the South. While ameliorating its stance on a range of social and economic issues, but holding steadfast to the deafening call for UCC (even though when in power) the BJP did little or nothing to reform Personal Law or enact legislations towards UCC. Meanwhile, the judiciary largely in its own wisdom since the Shah Bano judgment, remains opposed to any such move, in the interest of preserving democratic liberties. In their own way, in judgment after judgment across the country, the Muslim Women's Act is interpreted to encompass wider meaning and in more liberal terms than might have been the original intent, without disregarding, indeed informed by, the Criminal Procedure Code and other civil liberties that are afforded to the disadvantaged under Constitutional rights. This is attested to in cases brought by divorced Muslim women to the High Courts in Kerala, Bombay, and Calcutta. Thus, as Rajeev Dhavan (2001: 316) astutely notes: '[I]f personal laws are discriminatory to women, they would have to be tested against the doctrine of equality, and then struck down if found to be discriminatory and unreasonable.' In terms of the principles of secularism, both the state and society have to develop a consensus for social change. It may cautiously empower the society to do so. But neither is there scope for unlimited religious freedom, nor should the state exceed its neutrality in matters of religion, or discriminate against a religion, or favour one over another. The principles of secularism in the triadic vision of Gandhi-Nehru-Ambedkar (the third, especially, of regulatory reform), 'was certainly not devised to arm political Hindu fundamentalists to chastise Muslims for not making their law "gender just", or vice versa' (Dhavan 2001: 312). If, again as Dhavan notes, the

> "uniform civil code" was once a serious constitutional objective, it has now been trivialized into becoming a tragic farce. Politics has taken over. Hindu politicians, who are not really concerned about personal law reform, use the idea of the uniform civil code to chastise Muslims for not emulating the Hindu example. (Dhavan 2001: 317).

What we have shown is the explication of the thesis that Mendieta sums up aptly in the following adage (2009: 237): 'Religion remains not just an inexhaustible fountain of moral inspiration, but also an uncontainable, and undomesticateable source of both social cohesion and *social intolerance*' (emphasis added). A post-Hindutva yuga or truly post-secular era would only arrive when the Muslim ceases to be the symbol of the failure of the Indian nation, and the pseudo-secularisation that underpins the call for UCC is set aside; not the secular project as such, which awaits integration in the nation's agenda, but with the inclusive voice of Indian qua Indian Muslims, Sikhs, Christians, Jains and Parsee—as indeed of women and other marginalized, minority, and disadvantaged groups or communities.

2.4 Conclusion

I began the chapter by showing that the real threat for Hegel from the colonized was not physical but intellectual (even in the lurid abstractionism or 'polymorphic-perversity' of Hindu gods and goddesses that end up in the concept of Brahman)—a threat to the very design of the *Concept*. Hence Hegel's ontotheological schema can

be considered as a diagram of power—a discourse of knowledge as power, as Foucault critiqued—that at the same time provided a means for controlling the constituent and subversive forces within Europe, as well as a 'negation of non-European desire'. For Hegel, the Orient was as much a failure in the march of Reason heading toward the self-realization of the *Geist* as the Muslim is a failure in the Hindutva march toward Ram Rajya. This is not a matter of coincidence but one of convergence of a trajectory set for the successors of the colonial epistemography within the subcontinent (Spivak 1999: 134–56). Invention (or essentializing) and gerrymandering of religion as we saw with Hegel affords several reincarnations. But even Marxists and those committed to secular modernity fail to see 'the polyvalent nature of the Hegelian schema as a diagram of power that exerted a theoretical and practical influence on colonial, neocolonial [experience]…' (Mandair 2010: 155), and now postcolonial/globalized formations of power. This legacy has had an indelible influence on the Humanities and Social Sciences, the history and philosophy of religion included, and has worked its way into the Frankfurt Critical School also, whose key representative Habermas is as much guilty of its imbrications as were a galaxy of neo-Hegelians in the previous century.

Enrique Dussel (1996) in his deconstruction of the concept of 'modernity', Joseph Prabhu (2012: 134–5) observes, "points out that thinkers as different as Charles Taylor, Stephen Toulmin, and Jürgen Habermas in their accounts of modernity have presented it as an exclusively European occurrence centering around the key events of the Reformation, the Enlightenment, and the French Revolution, and in Toulmin's case, the Renaissance. This Eurocentrism is most explicit in Max Weber when he introduces the 'problem of universal history' with the question: 'To what combination of circumstances should the fact be attributed that in western civilization and in western civilization only cultural phenomena have appeared which (as we like to think) lie in a line of development having universal significance and value?' (cf. Warner 2010). According to this model, Europe had exceptional internal resources that allowed it to supersede through its superior rationality, disenchantment and organizational power all other cultures. What is forgotten in this account is that the history of European world conquest and the wealth and power that Europe acquired through such conquests and the misery visited on the native peoples. The solipsism of Descartes' 'ego cogito' is the mirror image and resonant expression of this inward-looking modern subjectivity, unwilling to acknowledge the oppression it causes to the subjected peoples of the New World".

I have then moved to argue from the Indian experience that however well-intended and benign the initial impetus towards the grand concept and promises of secularism, whether in the abstract or as the practical project of secularisation, there is also an underside to it, that in time surfaces as secularism's many infelicities, inadequacies and instabilities. If the signs of these entropy have not shown up sufficiently in Western experience since the Enlightenment railed in the 'force of secular law', then one could arguably bear witness to it in non-Western sites, particularly in the largest democracy in the world. To be sure, India's success and reputation as the largest (not necessarily the best or the most successful) democracy is yielded in part by virtue of the nation-state's commitment to a secular ethos—unlike in its neighboring theocratic state of Pakistan, or China for that matter. However, by the

same token, the fault lines in cementing and sustaining a rigorous democratic structure also, paradoxically, as I have shown, lies very much in the imbrications of secularism, particularly as it is unable to come to terms with the long history of the nation's religious fabric and is held to ransom by one community that feels woefully marginalized and underprivileged by apparently excessive rights that another religious community seems to enjoy with impunity, all under the protective canopy of the secular ideology which in the Indian rubric made the concept malleable to religious inclusiveness and pluralism of law. Secularism, in the eyes of the critics, in the Indian context at least, becomes something of a farce, if not exactly, a form of 'pseudo-secularism' as the aggrieved Hindu Right have been claiming. There are obvious lessons to be learned for those in the West who believe, as Charles Taylor does, that the time has come in the West when the old rigid concept of secularism is perched to give way to a more robust and open-ended conception of 'secularity'. Gandhi's uncompromising repudiation of modernity emphasized the transcultural benefits of a non-violent sociality. The oppressors, he maintained, had to be liberated from their own worst selves. And secularism is part of the tethers (Gandhi 1998: 137; Parekh 1999). And so the hermeneutic circle is complete: secularism is born from the underbelly of modernity as the 'disenchantment of the world' (Weber); the postsecular marks the birthing of the 'disenchantment of secularity'.

References

Bacchetta, Paola. 2004. *Gender in the hindu national: RSS women as ideologues*. New Delhi: Women Unlimited.

Bailey, Greg, and Ian Mabbett. 2008. *The sociology of early Buddhism*. Cambridge: Cambridge University Press.

Basu, Srimati. 2001. The personal law and the political: Indian women and inheritance law. *Larson* 2001: 163–183.

Baynes, K. 1998. Habermas. In *Routledge encyclopedia of philosophy*, ed. E. Craig. Online. http://www.rep.routledge.com/article/DD024SECT. Accessed 11 Sept 2011.

Bilimoria, P. 2002a. The enlightenment paradigm of native right and forged hybridity of cultural rights in British India. In *Varieties of ethical reflection: New directions for ethics in a global context*, ed. Michael Barnhardt, 235–262. Lanham: Rowman/Littlefield.

Bilimoria, P. 2002b. Postcolonial critique of reason: Spivak between Kant and Matilal. *Interventions: International journal of postcolonial studies* 4: 160–167.

Bilimoria, P. 2006. The pseudo-secularization of Hindutva and its campaign for uniform civil codes. *Nidan: Journal of the Department of Hindu Studies* 18: 1–21.

Bilimoria, P. 2007. Dismantling normativity in Indian ethics—from Vedic altarity to the *Gītā's* alterity. In *The ethical dimension and deconstruction normative ethics*, ed. Youru Wang, 33–74. New York: Routledge.

Bilimoria, P. 2008. Nietzsche as 'Europe's Buddha' and 'Asia's Superman'. *Sophia* 47: 359–376.

Bilimoria, P. 2009. The pseudo-secularization of Hindutva and its campaign for uniform civil codes. *Nidān* 18: 1–21.

Bilimoria, P., and Dina Al-Kassim eds. 2013. *Postcolonialism reason and its critiques, deliberations on Gayatri Chakravorty Spivak's thoughts*. New Delhi/New York: Oxford University Press.

Bilimoria, Purushottama, and Sharma, Renuka. 2000. Muslim personal law in India: Colonial legacy and current debates. Preliminary Report. http://www.law.emory.edu/ifl/index2.html. Accessed 11 Aug 2011.

Bilimoria, P. 1998. Kautilya (Fl. C.321-C.296 BC), Encyclopaedia of Philosophy, 220–222. London, UK: Routledge. [D1] http://www.deakin.edu.au/research/admin/pubs/reports/database/dynamic/output/cat/catdef.php#D1

Bilimoria. P. 2011. Hegel's spectre on indian thought and its god-in-nothingness, Review essay on Arvind-Pal Mandair's 2010. *Religion and the spectre of the west, Sikhism, India, postcoloniality and the politics of transnation*. In *Religions of South Asia*, special issue edited by Balbinder Singh Bhogal. Forthcoming.

Chatterjee, Partha. 1993. *The national and its fragments: Colonial and postcolonial histories*. Princeton: Princeton University Press.

Dhavan, Rajeev. 2001. The road to Xanadu: India's quest for secularism. In *Religion and personal law in secular India: A call to judgment*, ed. Gerald James Larson, 301–329. Bloomington: Indiana University Press.

Dussel, Enrique. 1996. Modernity, eurocentricism, and trans-modernity: In dialogue with Charles Taylor. In *The underside of modernity: Apel, Ricoeur, Taylor and the philosophy of liberation*. Trans. and ed. Mendieta, Eduardo, 129–159. Atlantic Highlands: Humanities Press.

Duvenage, Pieter. 2010. Communicative reason and religion: The case of Habermas. *Sophia* 49(3): 343–357.

Eisen, Robert. 2011. *The peace and violence of Judaism: From the Bible to modern zionism*. Oxford: Oxford University Press.

Gandhi, Leela. 1998. *Postcolonial theory: A critical introduction*. New York: Colombia University Press.

Gupta, Dipankar. 2009. Gandhi before Habermas: The democratic consequences of Ahimsa. *Economic and Political Weekly* 7: 27–33.

Habermas, Jürgen. 1985. *The philosophical discourse of modernity*. Cambridge: MIT Press.

Habermas, Jürgen. 2008. *Between naturalism and religion: Philosophical essays*. Cambridge: Polity.

Hasan, Mushirul. 1994. Minority identity and its discontents. *South Asian Bulletin* 14: 24–40.

Hasan, Zoya, and Ritu Menon (eds.). 2005. *In a minority: Essays on Muslim Women in India*. Delhi: Oxford University Press.

Mandair, Arvind-Pal. 2010. *Religion and the spectre of the West, Sikhism, India, Postcoloniality and the politics of transation*. New York: Columbia University Press.

Mehta, Pratap Banu. 2010. India: The politics of religious reform and conflcit. In *Religion, the enlightenment and the new global order*, ed. John M. Owen IV and J. Judd Owen, 174–192. New York: Columbia University Press.

Mendieta, Eduardo. 2001. Society's religion: The rise of social theory, globalization, and the invention of religion. In *Religions/globalizations: Theories and cases*, eds. Dwight N. Hopkins, and Lois Ann Lorentzen, 46–65. Durham, NC: Duke University Press.

Mendieta, Eduardo. 2009. Transcending the 'Gory Cradle of Humanity': War, loyalty, and civic action in Royce and James. In *Pragmatism, nation, and race: Community in the age of Empire*, ed. Chad Kautzer and Eduardo Mendieta, 222–241. Bloomington: Indiana University Press.

Parashar, Arcana. 2002. *Women and family law reform in India*. London: Sage Publications.

Parekh, Bhikhu. 1999. *Colonialism, tradition and reform: An analysis of Gandhi's political discourse*. New Delhi: Sage.

Prabhu, Joseph. 2012. Philosophy in an age of reason. *Australian Religious Studies Review* 25(2):123–138. Special Issue on Religion & Postcolonialism guest edited by P. Bilimoria.

Singer, Peter. 2011. Singer vs Lennox: Is there a God? *Big Ideas*, ABC TV. www.abc.net.au/tv/bigideas/stories/2011/09/06/3310342.htm. Accessed 15 Sept 2011.

Spivak, Gayatri Chakravorty. 1999. *A critique of postcolonial reason: Towards a history of the vanishing present*. Cambridge: Harvard University Press.

Taylor, Charles. 2007. *The secular age*. Cambridge: Harvard University Press.

Warner, Rob. 2010. *Secularization and its discontents*. New York: Continuum.

Žižek, Slavoj. 2009. *The death of god*. Keynote address at the American Academy of Religion Annual Meeting Montréal, Québec. http://www.egs.edu/faculty/slavoj-zizek/videos/the-death-of-god/. Accessed 15 Sept 2011.

Žižek, Slavoj, and Daly, Glyn. 2004. *Conversations with Zizek*. Hoboken, NJ: John Wiley & Sons.