HUMAN DIGNITY
IN INDIAN SECULARISM AND IN
CHRISTIANITY

Christianity in Dialogue with Indian Secularism

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HUMAN DIGNITY
IN INDIAN SECULARISM AND IN CHRISTIANITY

Christianity in Dialogue with Indian Secularism

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February 2007
# Abbreviations

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<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AA</td>
<td>Apostolicam Actuositatem</td>
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<td>AAS</td>
<td>Acta Apostolicae Sedis</td>
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<tr>
<td>AG</td>
<td>Ad Gentes</td>
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<tr>
<td>AIR</td>
<td>All India Reporter</td>
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<tr>
<td>ALR</td>
<td>American Law Reports</td>
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<tr>
<td>(art)Art / (arts) Arts</td>
<td>Article / articles</td>
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<tr>
<td>All, Bom, Mad</td>
<td>Indian Law Reports of Allahabad, Bombay, Madras</td>
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<td>BJP</td>
<td>Bharatiya Janata Party</td>
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<td>Bom LR</td>
<td>Bombay Law Reporter</td>
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<tr>
<td>CA</td>
<td>Centesimus Annuus</td>
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<td>CAD</td>
<td>Constituent Assembly Debates</td>
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<td>CBCI</td>
<td>Catholic Bishops’ Conference of India</td>
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<td>CD</td>
<td>Commentary on the Documents of Vatican II</td>
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<tr>
<td>cl / cls</td>
<td>Clause / clauses</td>
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<tr>
<td>CLR</td>
<td>Commonwealth Law Reports (Australia)</td>
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<tr>
<td>DB</td>
<td>Division Bench</td>
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<tr>
<td>EN</td>
<td>Evangelii Nuntiandi</td>
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<td>ES</td>
<td>Ecclesiam Suam</td>
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<tr>
<td>DH</td>
<td>Dignitatis Humanae</td>
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<tr>
<td>DV</td>
<td>Dei Verbum</td>
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<tr>
<td>GS</td>
<td>Gaudium et Spes</td>
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<tr>
<td>INC</td>
<td>Indian National Congress</td>
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<tr>
<td>JPD</td>
<td>Justice, Peace and Development</td>
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<tr>
<td>LE</td>
<td>Laborem Exercens</td>
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<td>LG</td>
<td>Lumen Gentium</td>
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<td>MD</td>
<td>Mulieris Dignitatem</td>
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<td>MHCR</td>
<td>Madras High Court Report</td>
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<td>MLJ</td>
<td>Madras Law Journal</td>
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<td>MM</td>
<td>Mater et Magistra</td>
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<td>NA</td>
<td>Nostra Aetate</td>
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<td>OA</td>
<td>Octogesima Adveniens</td>
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<td>PD</td>
<td>Parliamentary Debates</td>
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<td>PG</td>
<td>Patrologia Graeca</td>
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<td>PL</td>
<td>Patrologia Latina</td>
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<tr>
<td>PP</td>
<td>Populorum Progressio</td>
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<td>PT</td>
<td>Pacem in Terris</td>
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<td>QA</td>
<td>Quadragesimo Anno</td>
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<tr>
<td>RH</td>
<td>Redemptor Hominis</td>
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<td>RM</td>
<td>Redemptoris Missio</td>
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<td>RN</td>
<td>Rerum Novarum</td>
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<td>RSS</td>
<td>Rashtriya Swayam Sevak Sangh</td>
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<td>Section</td>
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<td>SC</td>
<td>Supreme Court</td>
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<td>SCC</td>
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<td>SCJ</td>
<td>Supreme Court Journal</td>
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<tr>
<td>SCR</td>
<td>Supreme Court Reports</td>
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<tr>
<td>SRS</td>
<td>Sollicitudo Rei Socialis</td>
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<td>Ss / ss</td>
<td>Sections</td>
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<tr>
<td>TDNT</td>
<td>Theological Dictionary of the New Testament</td>
</tr>
<tr>
<td>TDOT</td>
<td>Theological Dictionary of the Old Testament</td>
</tr>
<tr>
<td>UR</td>
<td>Unitatis Redintegratio</td>
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<tr>
<td>US</td>
<td>United States Supreme Court / United States Reports</td>
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<tr>
<td>VHP</td>
<td>Vishva Hindu Parishad</td>
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Introduction

0.1. The Concept of Secularism

Broadly speaking, secularism is a movement of thought, which aims to improve the temporal welfare of the people on rational and ethical grounds independently of religious considerations. The liberal ambiance of the nineteenth century Western Europe1 favoured the emergence of this movement. In the course of time, this concept has been assimilated into many systems of philosophical thought and socio-political movements and assumed different value connotations.2 Hence, it may be difficult to give an adequate conceptual definition to secularism. Dictionaries and encyclopaedias have, nevertheless, attempted to provide us with certain conventional definitions. Among them, the Webster’s Third International Dictionary defines it as a “system of social ethics based upon a doctrine that ethical standards and conduct should be determined exclusively with reference to the present life and social well being without reference to religion.”3

Similarly, the Encyclopaedia of Religion and Ethics terms it “as a movement, intentionally ethical, negatively religious, with political and philosophical antecedents.”4 It was George J. Holyoke (1817-1906), the English social reformer, who coined the word “secularism”5 for the socio-political movement that he initiated in the mid-nineteenth century. The aim of his movement was to improve the welfare of the working class, to free them from all forms of tyranny, whether of religion or of socio-political institutions, and to propagate the values of rational thought, and the autonomy of the secular order.6

The philosophy of utilitarianism7 had a great influence on secularism in the early phase of its development. Scholars claim that Jeremy Bentham’s book, Theory of Legislation,8 had a special influence on the development of secular movement that was launched by George J. Holyoke. According to Bentham’s theory, the moral basis of politics and law should be determined from the point of view of human welfare to attain the greatest happiness of the greatest number. As a movement of thought, Secularism was but a conscious articulation of the values and urges of the western European society that prevailed during the nineteenth century. These were the products of the Enlightenment,9 which propagated the autonomy of reason and natural sciences, and Liberalism,10 which stressed on the rights of the individual person. As a philosophical thought, secularism stands for the non-recognition of the

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6 Ibid., p. 5.


8 Ibid., pp. 404-407.

9 Ibid., p. 281 f.

supernatural. It advocates rational thought and scientific temper. From the ethical point of view, it calls for a practical morality of tolerance in the civil society based on the rational and social nature of the human person. Certainly, this is not the type of secularism that we come across in the Constitution of India. This calls us to search for the emergence of the Indian form of secularism in the context of the development of political secularism as evolved in the Western political history.

0.2. The Concept of Political Secularism

It is generally accepted among scholars that secularism, as a political ideology for the governance of the State, advocates separation of the State from religion. Depending on the nature of separation, there are different forms of secular States. It is called political secularism because the separation of the State from religion is intended for the creation of a secure political order where the citizens may organise their daily life free from religious conflicts; or when such conflicts arise, these could be resolved amicably. Its aim is different from religion, which deals with ultimate ideals of life towards a higher time or a higher order of things with an eschatological ring. These are beyond the aim and the competence of a secular State.

The origin point of the political secularism was the wars of religion that ravaged the Western Christendom in the aftermath of the Reformation and the growth of denominational Churches, and the eventual creation of the nation-states. In this conflict ridden situation, the need arose to search in battle fatigue for a political order so that people of different confessional persuasions might coexist in peace and organise their ordinary life in a decent way, free from religious wrangling and violence. This meant, in practice, to separate the State from religion in some form so that the public domain had to be regulated by some constitutional norms, which were independent of confessional allegiance. These norms must be capable of ensuring a sense of tolerance and public order in the society. For this political objective, rules of peace, even with heretics, and obedience to legitimate authority in the public sphere had to be formed beyond revocation in the name of one or other version of religious orthodoxy.

The present day concept of political secularism, as we have it in the liberal democratic tradition, emerged from these basic principles. However, the significance of political secularism cannot be properly gauged when viewed exclusively in the milieu of Western Christian denominational conflicts. Whenever and wherever interreligious or intrareligious conflicts and violence become uncontrollable and unbearable, something similar to political secularism arises intending to protect the citizens from a persistent clash of ultimate ideals and religiously motivated denominational or community interests.

The contemporary approach to political secularism depends upon the mode of interpretation given to the nature of separation involved between the State and religion in the public sphere. Prof. Rajeev Bhargava suggests that essentially, there are two kinds of approaches. The first kind identifies separation with total exclusion of religion from the public domain. Accordingly, it has been suggested that the secular State upholds no religion, pursues no religious goals. Religiously defined-goods have no place in the catalogue of ends the State promotes. Implicit in this approach is the belief that religion is irrelevant to public life. Religion, where it really counts in people's lives and commitments, essentially exists in the private sphere. This seems to be one of the widely accepted views in the Western world about the separation of the State from the Church. In its extreme form, the first kind of secular political

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13 Daily life means ordinary life as distinct from a life spent in the pursuit of some ultimate ideals towards higher time or eternity. Ibid., pp. 490-491.

14 Charles Taylor, “Modes of Secularism”, Ibid., p.32.

15 Ibid., p. 33.


17 Ibid., p. 35.
approach identifies separation with extrusion of religion from the public square and the State tends to become hostile towards religion. The typical example of this kind is the Constitution of the former Soviet Union, which recognized the freedom to antireligious propaganda but not religious propaganda.18

The second kind of approach does not demand total exclusion of religion but identifies separation as setting boundaries or as maintaining distance between the State from religion in the public domain. This form of approach sees separation in terms of "principled distance."19 Accordingly, the second kind of approach holds the view that it is possible for the co-existence of religion and the State in the public sphere. Religion and State constitute two distinct spheres in the society with their own respective areas of jurisdiction to care for the religious and secular needs of the people. Each is valuable in its own right. They respect each other as well as their own limits. Therefore, the State maintains a principled distance from religion in the public domain.

In the governance of the State, the idea of principled distance operates either through a policy of neutrality towards religions or through a policy of equidistant from religions. Positively speaking, both maintain a reasonable approach towards religion. The purpose of the neutrality policy is to avoid the State interference in the religious affairs. Similarly, the State keeps equidistant from religions so that it may not be partial to any particular religion.20

The Constitution of the United States of America is considered to be a typical example of State’s neutrality towards religion. Prior to the adoption of the Constitution, most of the States had State Churches. When the Constitution was adopted in 1787, the United States became a secular State in the sense that no religious test was needed to hold a public office.21 Later in 1791, the First Amendment to the U.S. Constitution declared that the Congress was to follow a policy of neutrality in religious matters, which is construed as not to interfere with matters of religion.22 The First Amendment to U.S. Constitution dealt with two distinct matters in relation to religion. They are referred to as the “non-establishment clause” and “the free exercise clause”. The non-establishment clause prohibits the State from establishing or preferring any religion. The free exercise clause prohibits the State from interfering in religious matters.

There are some States, depending upon their historical antecedents, recognise a particular religion as State religion. However, in the political affairs of the State, they follow the policy of separation in terms of equidistant from all religions and prohibit religious intrusion into the political affairs of the State. In other words, the State is not partisan to any religion in its political function and in the distribution of the political goods to citizens. The most characteristic example is the United Kingdom where the Anglican Church is the established Church with the King / Queen as its head.23 Nevertheless, the State gives full freedom to all religions and equal liberty of conscience and worship to all citizens. Countries like Ireland24 and Cambodia25 are of this category. In these States,
separation is taken to mean setting boundaries between the State and religion and their co-existence in the public sphere.

Political secularism also found its expression in the Constitution of India. As a political concept, it stands for the separation of the State from religion, equal protection of all religions and active opposition to communalism.\textsuperscript{26} Indian secularism is a combination of two streams of thought, the Western and the Indian.\textsuperscript{27} The Western concept has been contextualised in accordance with India’s culture of religious pluralism. In this process of synthesis, the content of the Western political secularism has been identified and interpreted as a political approach of religious tolerance for peaceful co-existence in the political community. This is not new to India, since it is known for religious tolerance. Consequently, the foundation of the theory of Indian secularism has been widely interpreted in the country as equal regard for all religions (\textit{Sarva-dharma-sambhava}),\textsuperscript{28} and opposition to communalism. Communal is the State religion” but article 8 guarantees to all “liberty of conscience and worship.”\textsuperscript{29}

\textsuperscript{26} The terms ‘communal’ or ‘communalism’ generally denote in the Indian usage a process of exclusive mobilization of a particular religious community on powerful religious symbols for non-spiritual benefits such as social, economic and political in a manner which is detrimental to the legitimate interests of other communities or of the nation as a whole. Communalism usually provokes violence against other communities, religious or non-religious, which are presumed as obstacles in achieving the objectives of the communal group. For an extensive study see Bipin Chandra, \textit{Communalism in Modern India} (New Delhi, Vikas Publishing House, 1989).


conflicts are endemic in many parts of India.\textsuperscript{29}

Evidently, as implied in the Constitution of India, secularism refers not to the exclusion or marginalisation of religion from the public sphere, but to a political and social order, wherein no one religion in its respective claim is preferred to the others. In a positive sense, it means that all religions are entitled, in their specific identities, to equal protection of the State. Precisely, this approach calls for the separation of the State from religion to make this polity to function so that the political goods of all communities are protected by the State. This happens only when the State in India is non-partisan, which requires in the logic of its functioning separation of the State from religion.

However, unlike the American concept of political secularism,\textsuperscript{30} the Indian concept is not based on a theory of strict “wall of separation”\textsuperscript{31} between the State and religion. Freedom of religion is guaranteed to all,\textsuperscript{32} but the State in India is not debarred from providing religious assistance, provided it is on reasonable grounds and on non-sectarian basis.\textsuperscript{33} Moreover, the State in India is

\textsuperscript{26} Articles 25 and 26 of the Constitution of India.


\textsuperscript{29} It has been reported that from 1947 to 1980, over 5000 cases of communal riots have been recorded. See A. R. Desai, “Caste and Communal Violence in Post-Partition Indian Union”, in Asghar Ali Engineer, ed., \textit{Communal Riots in Post-Independent India} (Bombay, Sangam Books, 1984), pp. 10-41.


\textsuperscript{32} Articles 25 and 26 of the Constitution of India.

\textsuperscript{33} Articles 27 of the Constitution of India.

empowered with extensive powers to intervene in matters related to religious practices. Therefore, the concept of separation as provided in the secular provisions of the Indian Constitution has been taken to mean as the State keeping a “principled distance” from all religions. In other words, the State in India maintains a reasonable approach towards religion. The State’s intervention or non-intervention depends upon the nature of religious practices. The State intervenes when their practices are in contravention of the politically defined goods of the people, as individuals and as communities, in their respective community identities, to organize their ordinary lives in a manner worthy of human dignity. The defining idea of Indian State’s principled distance seems to be based on a humanistic secular approach towards State and religion in order to secure a dignified life for all its citizens. This leads us to see the reasons for the need of this research study in the context of Indian secularism as enshrined in the Constitution of India as well as the pastoral responsibility of the Indian Church to safeguard human dignity in the civil society as implied in the teaching of the Church on human dignity, especially as given in the documents of the Second Vatican Council, the Pastoral Constitution Gaudium et Spes and the Declaration Dignitatis Humanae.

0.3. The Context of the Study, Research Question and Research Objectives

0.3.1. The Centrality of Secularism

Secularism is central to the conception of modern India as a nation-state. The Indian national movement for independence, which was one of the greatest mass movements in the world history — especially from the year 1880 onwards when the Indian National Congress (INC) spearheaded it, was a secular national movement. The strength of the secular content of the Indian national movement became obvious when, despite the partition of the country into India and Pakistan and the Hindu-Muslim religious hatred and bloodshed of 1946-47, free India succeeded in making secularism a basic pillar of its Constitution. The framers of the Constitution of India articulated the avowed aim of the Indian people and intended the State to be secular. The Constitution of free India came to force on 26 January 1950.

The term “secular” was added in the Preamble of the Constitution in 1976 by the Forty-second Amendment of the Constitution with the view to emphasise the secular character of the Constitution as enunciated by the framers of the Constitution. Its purpose was to assure to the citizens that the nation remained committed to the principles of the secular State. Srimati Indira Gandhi, the then Prime Minister, has concisely stressed this when she spoke for the reasons to add the concept “secular” in the Preamble of the Constitution. She said inter alia:

The founding fathers of our Constitution and of our country had intended Indian society to be secular and socialist. They have guided our laws all these years. All we are doing now is to incorporate them in the Constitution itself for they rightly deserve to be mentioned there. The specific mention of this fact in the Preamble will provide the frame of reference to the people, to the government, to the judiciary and to the world.

The Constitution of India does not provide us with explicit and precise explanation that the State in India is secular. However, when we read through the debates that took place in the Constituent Assembly at the time of framing the Constitution and when we study the Preamble of the Constitution and the relevant provisions of the Constitution guaranteeing the right to free exercise of religion and the ruling of the Courts on the subject, we are on

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35 Bipan Chandra, Essays, op.cit., p. 44.
38 Constitution (Forty-second Amendment) Act, 1976, s.2.
40 See especially articles 25 to 30 of the Constitution of India.
41 The judicial ruling on the secular character of the Constitution came as early as
reasonable grounds to say that secularism is a basic principle in making India as a nation-state.

It is generally presupposed in the Western liberal democratic political tradition that a secular State is expected to have three basic characteristics. They are religious freedom, citizenship unrelated to religious affiliation and separation – not always complete, of the State from religion as two autonomous institutions co-existing in the society. The secular character of the Indian Constitution seems to satisfy these basics. However, the content of the various secular provisions of the Constitution indicates its indigenous character. It has been adapted to India’s unique character, its propensity to respect diversity in religious pursuits and cultural expressions and to see dignity in diversity.

One of the defining traits of India of all ages is its culture of unity in diversity. It is the co-existence and integration of different religious, cultural, racial and regional strands but respecting their diversity and not resorting to homogeneity. Multiculturalism is integral to Indian way of life. The constitutional term for this is “composite culture.” It is the duty of every Indian citizen to value and preserve it in the civil society. At the time of national struggle for independence, Maulana Azad, a towering Muslim leader, has succinctly articulated this unique character of the Indian society. He pointed it out in his presidential address given to the plenary session of the Indian National Congress held in 1940. He said, “It was India’s historic destiny that its soil should become the destination of many different caravans of races, cultures and religions. Even before the dawn of history’s morning, they started their trek into India and the process has continued since.” Recently this has been recalled by Mr. K.R. Narayanan, the late President of India, in his Republic Day address delivered to the nation in 1999. He said:

The unity of our nation is not based on any monolithic idea, but on our age-old tradition of tolerance, which is at once a pragmatic concept of living together, and a philosophic concept of finding truth and goodness in every religion. Long ago, Mahatma Gandhi put it very simply: “I do not expect the India of my dream to develop one religion, i.e., to be wholly Hindu or wholly Christian or wholly Mussalman, but I want it to be wholly tolerant with its religions working side by side with one another.”

India as a multi-religious, multi-cultural, multi-ethnic, and multi-linguistic civilization constitutes what we call the nation-state. The founders of modern India saw that secularism was a relevant political answer to India's diversity, especially religious diversity, which is also known as the culture of pluralism. They saw that the value of human dignity is embedded in a culture that esteems diversity. They knew well that the culture of pluralism, especially religious pluralism, has a symbiotic affinity with Indian ethos, which should not be legislated away but should be incorporated into the Constitution. Thus the framers of the Constitution ensured it by making secularism one of the constitutive premises of the basic structure of the Indian Constitution. They made it clear that respect for diversity in the political community is an affirmation of human dignity. Consequently, Constitution recognises the inalienable worth

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43 Ibid., pp. 497-499.
44 Bipan Chandra, Essays, op.cit., pp.46-47.
45 Article 51-A (f), Constitution of India.
46 Ibid.
and dignity of every person as a moral subject to seek the truth and to organize one’s way of life in consonance with one’s conviction of conscience. This takes us to brief on the secular provisions of the Constitution of India and their specific contents.

0.3.2. The Secular Provisions Affirm Pluralism

Articles 25 to 30 of the Constitution of India contain the secular provisions. They serve as instruments to order a civil society wherein people are free from coercion to seek the truth and organize their lives as responsible subject of the society according to the convictions of their conscience. In this regard, articles 25 and 26 guarantee individual and corporate freedom of religion. This is generally secured in most of the constitutions under liberal democratic polity. In positive terms, these articles affirm that the individual and corporate freedom of religion in a free society is to be a fundamental human right and thereby this right is to be protected by juridical guarantee as a civil right. In negative terms, these articles also imply that coercion in matters religious is to be rejected as an offence against the inalienable worth and dignity of human person as moral subject.

However, the entitlement to free exercise of religion as provided under articles 25 and 26 of the Indian Constitution is subject to many qualifications and restrictions with the objective of giving protection of human dignity. First of all it is subject to public order, morality and health. Secondly, it is subject to the fundamental rights, which are enjoyed by all in the political community as guaranteed in Part III of the Indian Constitution. The free exercise of religion is guaranteed under the conditions of these humanistic objectives of the secular State since they are essential values needed in the society for people to lead an ordinary life with dignity. Thirdly, all persons are equally entitled to religious freedom. The doctrine of egalitarian anthropology adopted in articles 14 to 18 is inbuilt in article 25. Fourthly, this freedom applies to individuals and to corporate bodies. One need not be a member of a religious association or denomination or any section thereof for the entitlement to religious freedom. This has been aptly nuanced by placing the right to freedom of conscience prior to the right to profession, practice and propagation of religion. These articles protect diversity of beliefs and ways of life and their peaceful co-existence in a pluralistic society, which ensures to people security to lead a life worthy of human dignity.

According to article 27, the Constitution incorporates yet another dimension to the Indian conception of secularism. This article specifically prohibits the State from levying tax the proceeds of which are specifically appropriated for the maintenance or promotion of any particular religion or religious denomination. This provision equally implies that the State in India shall neither establish a religion of its own nor confer any special patronage upon any particular religion, but the State is not anti-religious. The prohibition against discrimination implied in these articles also means that whatever aid or encouragement the State may give, it should ensure the benefit of all religions.

Article 28 deals with an individual’s freedom from attending religious instruction or religious worship in certain educational institutions. This article provides that no religious instruction shall be imparted in any educational institution wholly maintained out of State funds. However, this does not apply to an educational institution administered by the State but has been established under an endowment or trust which requires that religious instruction shall be imparted in such an institution. This article further stipulates that no person attending any educational institution recognised by

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51 “Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion”. Article 25 (1), Constitution of India. This formula is repeated also in article 26, which secures corporate freedom of religion.


54 Article 30 (2), Constitution of India.

55 Article 28 (1), Constitution of India.

56 Article 28 (2), Constitution of India.
the State or receiving State aid shall be required to take part in any religious instruction that may be imparted there or to attend any religious worship that may be conducted there, unless such a person or, if such person is a minor, his/ her guardian has given consent to it.57

Article 28 also lays down a specific distinction between educational institutions wholly maintained out of State funds and those recognized by the State or receiving State aid. The imparting of religious instruction is wholly prohibited in the former, but no prohibition is attached to the latter from imparting religious instruction or conducting religious worship. This article reiterates a distinction between the sacred and the secular spheres, their co-existence in the society, and the dignity of the persons as moral subject by protecting them from coercion either by the State or any power in deciding their way of life in the civil society.

Similarly, articles 29 and 30 empower the minority communities based on language, culture or religion to conserve their respective community identities. These articles are the pointers that the Constitution is committed to conserve the rich heritage of India’s composite civilisation in order to provide space in the civil society for people to organise their lives in a manner fitting to their inalienable worth and dignity as moral subject of the political community.

0.3.3. Secular Constitution on Trail

During the past two decades, the growth of religious fundamentalism and communalism instrumentalised religion to create violence in the society. It has become a matter of great concern in the country. This was particularly true with a Hindu communal nationalist ideology of a fascist type, known as the Hindutva ideology.58 This militant organisation was formed in the early phase of the twentieth century. In the recent years, it has been on the rise over the Indian political landscape. The proponents of this ideology have relentlessly sought to communalise Indian nationalism by denouncing the secular provisions of the Indian Constitution as pseudo-secularism59 intended to appease the non-Hindus, namely the minority religious communities like Muslims and Christians.

Prof. Upendra Baxi points out that these communal forces have managed to attract political mobilisation of the masses by fanning up the Hindu communal sentiments based on the following three political propositions: “That Hindu Indians are treated badly by a State professing ‘secularism’; that true ‘secularism’ consists in affording a strong protection, or at any rate affirmation, of Hindu Indians; and that only such protection or affirmation will, in turn, ensure respect for the autonomy of other religions.”60 In other words, non-Hindus can be part of Indian nation provided they abide by the objectives of the Hindutva weltanschauung.

The Hindutva militants have committed atrocities against the minorities, especially the Muslims and Christians. Religious personnel were the victims of their attacks. Places of worship have been demolished and desecrated.61 These acts of communal violence and ideological onslaught have been grievous blows to all principles of secularism, democracy and civilised nationhood as enshrined in the nation’s Constitution. They have falsified the culture of pluralism,62 which underpins India’s national unity, as well as the characteristic mark of its history and civilisation.63

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57 Article 28 (3), Constitution of India.
58 A large amount of writings, books and articles are available. We only mention for information a few recent publications: Christophe Jaffrelot, The Hindu Nationalist Movement and Indian Politics, 1925 to 1990’s (New Delhi, Penguin Books, 1999); P.S. Ghosh, BJP and the Evolution of Hindu Nationalism, from Periphery to Centre (New Delhi, Manohar Publishers and Distributors, 1999); Hansen T. Blom, The Saffron Wave, Democracy and Hindu Nationalism in Modern India (New Delhi, 1999); P. Van Der Veer, Religious Nationalism: Hindus and Muslims in India (New Delhi, Oxford University Press, 1996); M. Juergensmeyer, Religious Nationalism Confronts the Secular State (New Delhi, Oxford University Press, 1993).
63 K.N. Panikkar, “Outsider as Enemy: Politics of Rewriting History in India”, in Indian Church History Review, XXXVI, No. 2 (December 2002), pp. 73-89.
These acts of religious fanaticism and ideological assault have put under high risk the viability of the secular, democratic constitutional edifice of the nation. These acts of communal hatred have traumatised the nation, especially the minority religious communities, the Constitution and also Hinduism because its greatness "lies essentially in its diversity and catholicity which enabled it to embrace even atheism."64

0.3.4. The Indian Church amid the Nation’s Secular Concern

Political parties and people’s organisations committed to India’s composite culture and its secular democratic future have come together on secular nationalist terrain to oppose the communal menace of the Hindutva ideology and to ensure a polity appropriate to the secular democratic objectives of the nation’s Constitution. Christians in India, especially the Catholic Church in India, have expressed their solidarity with the majority of the country’s citizens, who are committed to the constitutional values and objectives of secularism. In this context, the Catholic Church in India has taken a historic decision to develop an appropriate pastoral response to the political problem of national magnitude and expressed the Indian Church’s desire to create a common forum of dialogue and collaboration with the civil society in support of the secular Constitution of India.65

With this emerging trend in the background, the Biennial General Body meeting of the Catholic Bishops’ Conference of India (CBCI) held in the year 1994 in New Delhi had its deliberations on the theme “The Christian Contribution to foster secularism in the country in the changed circumstances.”66 At the end of the Conference, the Bishops issued a “CBCI Message on Secularism.”67 This was addressed to all people of good will, especially to the Catholics of India, exhorting them to uphold and promote true secular values. The Preface of the booklet published by the Conference states:

[The booklet] will go in a big way to help our personnel and institutions to reflect over this fundamental and basic feature of our nation so that we can take a positive step to promote it.

Secularism or secularisation process enables people to liberate themselves from oppressive traditions, beliefs and practices breaking down feudalism, traditional values, culture of caste discrimination and inferior status of women. This process of secularisation involves socio-economic, political, constitutional and religious implications.68

The Bishops’ Conference in its message on secularism states:

In India today, poised as we are on the brink of revolutionary economic, social and cultural changes, the forces of religious bigotry and intolerance have unfortunately reared their ugly heads. Some types of religious fundamentalism seek to gain legitimacy in the guise of nationalism…This unfortunate movement is exclusivist and intolerant. It seeks to divide the polity on religious grounds and openly calls upon non-conforming religious minorities to either conform or to get out. Fortunately this religious bigotry is not representative of the vast majority of India’s citizens, who remain tolerant, respectful of religious diversities, and take pride in India’s pluralistic society.

The Catholic Bishops of India, meeting in New Delhi on the occasion of the 23rd Biennial Conference of the CBCI…have prayerfully and carefully pondered over the situation prevailing in India at this time. We strongly affirm our support for the secular values enshrined in the Indian Constitution, which are not merely tolerant of religious, cultural and linguistic diversities, but which respect all these differences and which unambiguously promote equality before law for all citizens and the pursuit of social justice and the well being of all… We are aware that secularism is integral to the basic structure of the Indian Constitution and of Indian society…

64 Bipan Chandra, Essays, op.cit., p.85.
65 JPAD, Secularism in Indian Context (New Delhi, CBCI Centre, 1994).
66 Ibid., p. vii.
67 Ibid., pp. 79-82.
68 Ibid., p.vii.
We strongly recommend that all citizens and Christians in particular, actively participate in the political, social, cultural and economic life of the nation to promote basic human values and to make the political, social and cultural systems supportive of the just aspirations of the people, specially of the poor and the marginalized.69

Commenting on the pastoral role of the Church in promoting and conserving the secular values of the Indian Constitution, the Bishops say:

In this context, the primary role of the Church will be to infuse the right spirit of secularism at different levels in society through means available in our pastoral ministry. Catechesis is one of the important means by which, the true spirit and value of secularism can be infused. Secondly, information about other religions, and the right attitude towards the values of those religions is another means in our catechesis. Pastoral letters should articulate this authentic character of secular education…

Through its various Educational, Health and Social Service Organizations, the Church in India should find creative means of promoting true secular values…

We should not take our secular polity for granted, but should work actively to preserve and promote it. Eternal vigilance is the price of freedom.70

Similarly, the Indian Theological Association (ITA), in its annual conference held in the year 2000 at Bangalore, studied the phenomenon and ideology of Hindutva.71 In its concluding statement, the Association stresses that it is a dangerous ideology that falsifies Indian history and communalises Hinduism and Indian polity.72 The Indian theologians highlight further that “the age-old civilization of India is pluralistic and India has been continuously sustained and nurtured by the diversity of its peoples, races, cultures, religions, traditions, and languages … [which] cannot be sacrificed”.73

In this context, describing the mission of the Church in the civil society the Indian theologians stress inter alia:

India is a multi-religious and pluri-cultural country. Such diversity is its divinely bestowed blessing and grace. The Church’s mission in this context calls for it to be a truly dialogical community…to foster dialogue with other religions, ideologies and movements cherishing, safeguarding, promoting and assimilating the wealth of truth and grace to be found in them.

The dialogical mission of the Church also implies that it becomes an agent of reconciliation and peace among various groups. Even when it becomes itself a victim of communal violence, it has to carefully avoid retreating into a paralysing fear psychosis of indulging in aggressive and often counter-productive postures of self-defence. Rather, it has to keep in mind its vocation to be the “light of the world” and “salt of the earth” and strive to enter increasingly into the mainstream of the nation’s life by infusing into it the ever-new face of Christ’s love. It has to join hands with the majority of the country’s citizens who are, by and large, persons of good will and peace loving. We have to create a common forum of dialogue and liberative action through which mutual misunderstanding, hatred, discord and discrimination could be opposed, and we could together build up a nation with justice, peace and harmony.74

Religious communalism of the Hindutva has become a threat to the secular character and framework of the State and society in India. It has spread its tentacles in the civil society and also

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69 Ibid., pp. 80-81.
70 Ibid., pp. 81-82.
72 Ibid., p. 322.
73 Ibid., p. 315.
74 Ibid., pp.320-321.
succeeded in gaining access to centres of political power. The Indian Church has come forward in solidarity with the civil society and shares its anxiety and hope. It has taken the initiative, though in a moderate way, to enter into dialogue and collaboration with the civil society to offer its services to strengthen the secular democratic institutions of the country in order to protect the just aspirations of all, beginning with the least in the society, the poor and the marginalized. The Church has taken this step as part of its social ministry to civil society arising from its pastoral responsibility, and willing to offer the “means available in [its] pastoral ministry”, such as catechesis, pastoral letters, educational, health and social service organizations to impart and inculcate among people the true spirit of secularism as enshrined in the Constitution of India.

These are laudable plans of a religious community, which is an insignificant minority community in the vast political community of India.

0.3.5. Centrality of Human Dignity

The context of our study, which we described above, posits the central research question and the answer provides the matter for our research project. This has to do with the question: what constitutes the ultimate reason for the Indian Church to support the Indian form of secularism enshrined in the Indian Constitution? In responding to this question, we need to pay attention to the following principles. The ultimate reason must be grounded in a manner that it must be embodied in the secular provisions of the Constitution of India and, at the same time, it must also resonate with Christian faith perspective. This is needed because the Church’s support for the political philosophy of the Indian form of secularism is not something added to or something apart from its ecclesial ministry, but part of its social ministry to the civil society arising from its ecclesial ministry.

This is based on the faith perspective of the Church. The Church is the community of Jesus’ disciples who are called together by his word and animated by his Spirit to continue his mission in all nations and among all peoples of the world. The Church’s ecclesial mission is none other than the mission of Jesus himself in the service of God’s Kingdom inaugurated by him. The Church carries on this mission in the civil society, as the Second Vatican Council states, “most of all by her healing and elevating impact on the dignity of the person, by the way in which she strengthens the seams of human society…the Church believes she can contribute greatly toward making the family of man and its history more human.” Therefore, it is part of Church’s ecclesial ministry to civil society to defend the transcendent dignity of the human person created in God’s image.

Hence, our answer to the research question is that respect for human dignity constitutes the ultimate reason for the Indian Church to support the Indian form of secularism as enshrined in the secular provisions of the Constitution of India. It is also the basis for the Church to engage into dialogue and collaboration with all peoples of diverse persuasions in the civil society and with civil movements.

76 The phrase “Indian Church” generally means the ‘Catholic Church in India’ but not in an exclusive sense. The phrase came in usage among Catholic theologians in India since the late 1970s, when interest in inculturation became an important movement in the Catholic Church in India. See D.S. Amalorpavadass, ed., The Indian Church in the Struggle for a Just Society (Bangalore, NBCLC, 1981), pp. 17-18, 40 ff; Paul Puthanangady, ed., Yesu Krist Jayanti 2000: Towards A New Society (Bangalore, St. Paul’s Press, 2001), p. 92.
77 Ibid., Secularism in Indian Context, op.cit., p. 81.
78 Ibid.
for the purpose of promoting values and institutions protective of human dignity. Respect for human dignity is central to political philosophy of the Indian form of secularism and to Christian theology of human person, society and State because both accord high priority to prevent violation of human dignity.

How do we know it? We know it from the secular previsions of the Constitution of India⁸⁴ and allied articles⁸⁵ of the Constitution, which respect diversity in the civil society. To respect diversity, especially religious diversity, is to provide with a polity that prevents the evil of violating the inalienable worth and dignity of the human persons as free and responsible subject to seek after the truth and accordingly to organise their lives in the civil society. Similarly, according to Christian theology, since all persons are created in God’s image and redeemed by Christ for blessed communion with God, they are endowed with capacity to seek after the truth and order their lives in responsible freedom.⁸⁶ Therefore, all are endowed with inviolable dignity and inalienable rights. Society and State must respect these values because people created in God’s image are the subject of these institutions.⁸⁷

Our answer to the research question is also the basis for the title of the thesis “Human Dignity in Indian Secularism and in Christianity” which is sub-titled as “Christianity in Dialogue with Indian Secularism.”⁸⁸ Hence, in accordance with the context of our research project, which we have explained above, and the title of the thesis, we articulate the following as the primary objectives of our research: Firstly, it is to present a systematic study of the centrality of the concept of human dignity in the Indian secularism as seen in the secular provisions of the Constitution and in the Christian theology of the human person, the political order, and religious freedom. Secondly, it is to identify in them the defining principles of value commonality and, therefore, to propose human dignity as a significant basis for dialogue and collaboration between the Indian Church and the political community to promote the philosophy of humanistic secular ethos of the Constitution.

It is to be noted, as shown above, that the modern concept of political secularism is European in origin. It is based on the principles of civil liberties, egalitarian social order, human dignity, rule of law, the institution of the constitutional State – a State based on the principle of the separation of powers – and the modern affirmation of the secularity of the temporal order, which is to be construed as the recognition of the legitimate autonomy of the secular institutions, their proper laws and values. These principles and institutions were the eventual results, which arose from the collapse of the unitarian order of the medieval Western Christendom that could no longer withstand the forces of modern pluralistic Europe.⁸⁹

These political values and institutions are also embedded in the Indian secularism as provided in the secular provisions of the Constitution of India.⁹⁰ They have been adopted from the Western liberal democratic tradition, but attained indigenous value significance when adapted to the Indian cultural ambience to secure the pluralistic nature of the Indian society under a constitutional State. All this becomes part of our investigation in order to provide with material needed for theological reflection on the concept of human dignity as propounded in the teaching of the Catholic Church. Similarly, by the sub-title “Christianity in Dialogue with Indian Secularism”, we mean specifically the initiative taken by the Catholic Church in India to dialogue with Indian Secularism.

⁸⁴ Articles 25-30, Constitution of India.
⁸⁵ See the Fundamental Rights as given in Part III of the Constitution of India, especially articles 14-19.
⁸⁶ GS, articles 12, 15-17, 19, 22; DH, articles 2-4; *Catechism of the Catholic Church* (Bangalore, TPI, 1994), pp. 327-332.
⁸⁷ GS, article 73; DH, articles 2-8.
⁸⁸ We make a point of clarification in the use of the term ‘Christianity’ as given in the title of the thesis. By Christianity we specifically mean in the title of the thesis the Catholic Church in India. Hence, human dignity in Christianity means

dignity as emerging from the Indian Constitution and from the Christian tradition.

While dealing with the Christian tradition, we pay special attention to the documents of the Second Vatican Council, the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes; and the Declaration on Religious Freedom, Dignitatis Humanae. In these two conciliar documents, the Catholic Church brings out an updated version of theological anthropology in a systematic form dealing with human person, society and state – all centred on human dignity and sourced by the biblical vision of the human person as imago Dei. This takes us to give an overview of the chapters.

0.4. An Overview of Chapters

This thesis consists of six chapters in two parts. Part one has chapters one to three and part two has chapters four to six. First of all, it is to be noted that the principles of Indian secularism have been shaped by insights assimilated from many traditions. The principle of equal respect and regard for all religions is founded on India’s age-old ethos of religious pluralism. The principle of social and religious reforms for human welfare and regard for human dignity has been the constitutional affirmation of the humanistic legacy of Indian Renaissance. The principles of democratic polity, fundamental rights, egalitarian social order and separation between State and religion have been drawn from the experience of Western liberal political tradition, especially from the constitutional principles of the United States of America.

Hence, chapter one titled as “Secular State in the Western Tradition,” presents a study of the development of this political institution in the Western Tradition. Our inquiry begins with the Church in the Roman Empire and culminates with the First Amendment to the Constitution of the United States of America, which established, for the first time in the political history, religious freedom as a legal institution in the juridical order of the constitutional State. In this chapter, we have also added a few cases appeared before the U.S. Supreme Court. These cases had been appealed on the ground that certain policies of the Board of Education in that country seemed to have violated the First Amendment to the U.S. Constitution. We have taken these cases to study the judicial application of the First Amendment, which claimed to have established a strict principle of separation between the State and religion in that country.

Similarly, chapter two titled as “The Indigenous Foundations for Indian Secularism” presents a study of the Indian political history. We present a historical survey beginning from ancient history to the time of making of the Constitution of modern India as a nation-state. We pay special attention to some important political developments and ideas that shaped the culture of religious diversity and tolerance, and the history of Indian national movement for the independence of the country. We also highlight the emergence of different kinds of nationalism, such as religious nationalism, communal nationalism and secular nationalism, which arose in the country, when the political struggle began for swaraj (independence) from the foreign yoke. We highlight the importance of the secular nationalism, which, under the leadership of Gandhiji, the Father of the nation, became the national mass movement for the creation of a modern secular democratic State in India.

We also present the opinions of the framers of the Constitution on secularism as voiced during the debates on the subject in the Constituent Assembly and the opinion of the scholars. We follow this process of investigation to obtain, from a historical perspective, a clear idea of the development of the Indian form of secularism enshrined in the Constitution of India, even though the secular
provisions of the Indian Constitution are, for the most part, adopted from the political principles of the Western countries.

The results of our research in this part points out three facts: (1) Secularism as a political doctrine developed both in the Western political history and in India in a religiously plural society to manage religious conflicts, to protect people from religious persecution, religious violence and occasional communal conflicts and to affirm religious freedom a civil right. (2) It was instrumental to create the institution of constitutional State based on civil liberties and egalitarian social order and rule of law. These are essential political values and institutions to protect human dignity. (3) India’s age-old culture of religious pluralism, its composite civilisational ethos and the absence of religion-state conflict in the annals of its political history were instrumental to integrate the Western liberal democratic values and institutions with its ancient civilisational heritage. Secularism adopted by the framers of the Constitution of India means positively religious pluralism, which is to be taken to mean, in a broader perspective, as respect for diversity in the political community and negatively it means a non-communal State.

Chapter three deals with the secular provisions of the Indian Constitution and allied articles as interpreted by the Indian judiciary. Most of our study in this chapter revolves around articles 25 and 26 of the Constitution, which guarantee individual and corporate freedom of religion. These provisions point out that the framers of the Constitution intended a form of secular polity that respects all religions with equal regard and acknowledges the place of religion in the society. However, the right to free exercise of religion is subject to a constitutional framework of egalitarian social order, imbued by the principles of welfare State, public order, morality and health. These are expected to promote substantive values for the enhancement of human dignity in the civil society. Hence, the State in India has wide powers to regulate religious freedom in defence of human dignity.

Moreover, when cases are appealed against certain State regulations allegedly violating the right to religious freedom, the Courts in India have the responsibility of giving judicial definition to “religion” and “matters of religion” protected under the secular provisions of the Constitution. Therefore, the contribution of the Indian judiciary is very important for us to understand the underpinning political philosophy of the Indian form of secularism. For this purpose, we investigate some historic cases that appeared before the Supreme Court of India claiming for protection under the right to free exercise of religion guaranteed by the Constitution.

Hence, chapter three deals with the judicial definitions of “religion” and “matters of religion”, constitutional laws related to the “Free Exercise of Religion and State Restrictions”, “State Assistance to Religion”, and some important laws related to “Welfare State and Religion”.

In the light of our research findings, we define the Indian secularism as Humanistic Secularism and enumerate its salient features. We define it as humanistic because its idea of “principled distance” from religion is basically conditioned by certain humanistic values in defence of the inalienable worth and dignity of the human person as a moral subject in one’s self-identity and the community of persons in their distinct community identities in the pluralistic society. Human dignity is inclusive of the social nature of the person.

We conclude the first part of our reflection by pointing out that the leitmotif of the philosophy of humanistic secularism of the Indian Constitution is to secure a dignified life for all its citizens and to promote values and institutions for the advancement of human dignity in the pluralistic Indian society. This is the solemn resolve of the people of India, their hope and longing for constituting India a Secular Democratic Sovereign Republic.94 In the context of Indian political community, it is a significant source for our theologising on human dignity in the light of theological anthropology as developed in the Christian tradition. This would be our task in part two of our research study.

Part two presents an extensive theological study of the Christian concept of human dignity beginning with the biblical sources and

94 See the Preamble of the Constitution of India.
its systematic development in the documents of Vatican II. The aim of this part of study is to interpret the philosophy of the humanistic secularism of the Indian Constitution, which is centred on human dignity, in the light of theological anthropology, which is also centred on human dignity. In the light of these studies, this part of research concludes that human dignity can be a significant basis for dialogue and cooperation between the Indian Church and the civil society to advance the cause of humanistic secular ethos of the country as intended by the Constitution of India.

In pursuance of our research objective, chapter four studies the development of theological anthropology based on *imago Dei* doctrine. In particular, this chapter pays attention to the biblical sources, the contributions of the classical theology and the social encyclicals of the Popes. The aim of this chapter is to see, in a historical perspective, the development of the concept of human dignity in Christian thought, especially in theological anthropology, and its eventual importance for the Christian approach to temporal order, namely society, State and human rights, etc., as expounded in the contemporary encyclicals of the Popes.

Chapter five explores – in the background of the progressive theological development of the concept of human dignity as shown in chapter four, the theology of human dignity as developed in the documents of the Second Vatican Council, *Gaudium et Spes* and it application to religious freedom and constitutional State as given in *Dignitatis Humanae*. These documents are studied in the context of the Church’s opening towards the world in terms of triple dialogue. In particular, as required to our research objectives, the chapter studies the systematic development of the theology of human dignity in *Gaudium et Spes* and *Dignitatis Humanae* in the context of the Church’s opening towards the political community and its readiness to enter into dialogue and collaboration with people of all persuasions in the civil society to secure human dignity.

Chapter six concludes our research project. Firstly, the chapter collates the salient features of the philosophy of humanistic secularism of the Indian Constitution. Similarly, it brings together the most important features of the Church’s teaching on constitutional State based on human dignity. Secondly, it points out a common anthropological approach underlying in the philosophy of Indian secularism and in the theological anthropology of the Christian thought. We call it as “relational anthropology” whose ethics is “interhuman concerns”. It is an ethics that cares for others.

It is the same ethics of the Kingdom values of Jesus. Therefore, the chapter relates the humanistic values of the Indian secularism with the Kingdom values and points out that God’s Word and Spirit are not absent in the political aspirations of the people of India as a nation-state. Accordingly, the chapter concludes by proposing that human dignity can be a strong basis for dialogue and collaboration between the Indian Church and the civil society in defence of substantive values and institutions, which protect human dignity in the civil society.

**0.5. Methodology**

Our research consists of a systematic theological study of the concept of Human Dignity in Indian Secularism and in Christianity. This research project requires a theological methodology, which is inductive in its approach of doing theology. They inductive method starts from historical facts and experiences and leads to faith-insight or revealed truth for interpretation. In this process of doing theology, both the historical elements and the deposit of faith (*depositum fidei*) constitute as the sources of theological knowledge (*loci theologici*). Theologising proper takes place in the second stage. We have arranged the structure of our research work accordingly. Part one of the thesis constitutes the first stage

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and part two forms the second stage, namely the theological
reflection on human dignity in the light of insights drawn from
Christian faith. For part one, we gather materials from political
(Western and Indian) and ecclesiastical history, and from
commentaries on constitutional law and judicial decisions of the
Indian judiciary as well as from few cases appeared before the
United States’ Supreme Court.

Chapters one and two basically deal with political and
ecclesiastical history for which we follow the method of content
analysis and contextual interpretation of the historical information.
Chapter three studies specifically the secular provisions of the
Constitution of India. For this we follow the method of case study
of the Court rulings on relevant cases as used in the study of
constitutional law. Part two consists of theological reflection. We
follow the method of systematic theological approach. To maintain
the thematic continuation of the research from one chapter to the
other, each chapter ends with a conclusion.

The topic of this research project is something new. We haven’t
come across its treatment either under theological or secular
disciplines, though several research works and doctoral dissertations
and plenty of articles have been published on Indian secularism.
However, some of the previous works are helpful for our research.
John Courtney Murray’s98 theory of religious freedom and
constitutional State has helped us to explore the significance of
some underpinning principles of the liberal democracy to Christian
understanding of human person, society and State because in the
Christian thought these are centred on the value of human dignity,
but ultimately theocentric as they are founded on the theology of
creation and redemption. Rajeev Bhargava’s99 theory of classifying
the Indian secularism as “contextual secularism” and his theory of
“principled distance” give us clarity in our attempt to identify the
centrality of human dignity in the Indian secularism. For our
theological work on human dignity, the doctoral dissertations of
A. O. Erhueh100 and Gunnlaugur A. Jonsson101 on the concept of
image of God have been resourceful. And for the rest, ideas taken
from various sources are duly acknowledged at appropriate places.

99 Rajeev Bhargava, “What is Secularism For?” in Rajeev Bhargava, ed., Secularism
and Its Critics (New Delhi, Oxford University Press, 1999), pp. 486-550.
100 A.O. Erhueh, Vatican II: Image of God in Man (Roma, Urbaniana University
Press, 1987).
101 Gunnlaugur A. Jonsson, The Image of God: Genesis 1:26-28 in a Century of
Old Testament Research, trans., L. Svendsen, revised by M.S. Cheney,
Coniectanea Biblica, Old Testament Series 26 (Almqvist & Wiksell
PART ONE

The Concept of Secular State in the Western and Indian Traditions

1. Introduction

Part one studies the concept of secularism enshrined in the secular provisions of the Constitution of India. In accordance with the research objectives of this thesis, the aim of the research in part one is to identify the particular form of Indian secularism and its philosophy centred on human dignity in the governance of the State. This part of the research takes into account that the concept of political secularism developed over a period of several centuries of Western political experience. It has become a constitutive concept of the liberal democratic political tradition that originated from Western Europe and the United States of America.

The concept of political secularism reached the shores of the Indian soil in the second half of the nineteenth century at the time of Indian national movement for independence. Right from the beginning, the political application of secularism in the functioning of the State in India has been indigenised to India’s need. Accordingly, it came to mean in the Indian polity the separation of the State from religion, equal regard for all religions (Sarva-dharma-samabhava) and active opposition to communalism. This form of secularism stood opposed to communal nationalism, and united people of diverse faith affiliations to engage in the national struggle for political freedom. It was a basic constituent of the freedom movement’s political vision of the independent India and finally got incorporated into the Constitution as one of the pillars of India as a nation-state.

The indigenous character of the Indian secularism is known by the manner in which the idea of separation between the State and religion is approached. The manner in which religious freedom is guaranteed in the Indian Constitution shows that the State in India keeps a “principled distance from religion”. In other words, the Indian secularism raises the radical question: separation for what? The principled distance that the State in India keeps from religion gives the answer. It is to promote humanistic values, such as liberty, social justice, egalitarian social order, and religious harmony, etc., in the pluralistic society so as to secure human dignity for all. These are solemnly enshrined in the Preamble of the Constitution of India.

Hence, in keeping with the research aim of part one, chapter one presents an investigation into the development of the concept of secular State in the Western political history and the eventual creation of the particular form of secularism as given in the Constitution of the United States of America. The American model of secularism seemed to have had a decisive influence in the formulation of the fundamental rights that pertain to the free exercise of religion as given in the Indian Constitution. In this context, our purpose in chapter one is to identify the value significance of the particular form of political secularism as given in the United States Constitution in relation to Indian Constitution which is studied in the following chapter.

In chapter two, we make an extensive enquiry into the Indian political history to identify the indigenous factors that influenced the formation of the political philosophy of secularism as thought out by the framers of the Constitution. Besides giving due attention to India’s ancient and medieval political history, we pay special attention to the history of the Indian freedom movement, the emergence of the Indian secular nationalism and the debates that took place in the Constituent Assembly. These had a decisive role to play in the formation of the concept of secular state, especially when religious violence and hatred prevailed at the dawn of country’s independence.

In chapter three, we examine and discuss the value significance
of the secular provisions of the Indian Constitution, which
regulate the principle of religion-state separation. We also analyse
and study the relevant constitutional provisions dealing with religion
and welfare State as well as the egalitarian order of the civil society.
We conclude that these provisions of the Indian Constitution do not
intend to create a State, which marginalizes religion, or a State
neutral to religion. On the contrary, they imply that the State in
India respects all religions with equal regard, acknowledges their
due importance in people’s lives and guarantees their free exercise
but under the frame-work of an egalitarian social order informed
by the principles of the welfare state which is consistent with the
progressive enhancement of human dignity. Hence, chapter three
deals with the contribution of the Indian judiciary.

CHAPTER ONE

Secular State in the Western Tradition

1.1. Introduction

Several political exigencies, which took place for many centuries,
were instrumental for the creation of the concept of secular state
in the Western world. Its historical antecedents are traceable in
the history of Christianity in the Roman Empire. This concept, which
developed into a definite political institution in the early nineteenth
century, has been instrumental for the creation of the liberal
democratic tradition in the Western Europe and in the United States
of America. It has become the contemporary political order in many
countries of the world.

The modern India as a nation-state is founded on liberal
democratic polity. While framing the fundamental rights as well as
the secular policy, the framers of the Indian Constitution have relied
upon the principles laid down in the Constitution of the United States
of America, including the one related to religious liberty as provided
in articles 25 to 28 of the Indian Constitution. Moreover, in the
early phase of the Indian judiciary the Indian judges have been
guided by the jurisprudence of the American judiciary in dealing
with matters related to religious freedom.\footnote{Donald E. Smith, \textit{op.cit.}, pp.100-101.}

Hence, in this chapter we present a broad review of the Western
political history to point out the most significant events and ideas,
which have shaped the institution of the secular state in the West.
We also pay special attention to United States Constitution. We
have also incorporated in our study some historic cases dealing
with the principle of religion-state separation, which appeared before the United States Supreme Court. Our objective is to highlight that the political philosophy of religion-state separation as enshrined in the Constitution of the United States does not amount to hostility towards religion, but does imply a juridical understanding of coexistence of the two institutions to take care of the secular and religious needs of the citizens in a manner which secures human dignity in the cultural climate of that country.

1.1.1. The State Cult in the Roman Empire

The Roman Republic, which was centred on the Senate and based on the citizen-class of Italy and the provincial municipalities, was founded on the cult of state-deity just as the Greek city-states grew around some local deities. Arend T. Van Leeuwen observed that it was a weakness of the Roman Republic to have this sacral linkage since it meant that the existence of the Republic was legitimised by a theocratic ideology. Augustus Caesar revived the state-cult. He championed the cause of the Roman Republic, but introduced the political ideology of Hellenistic orientalism. Thus, he combined in himself the function of the Prince of the Senate with the sacerdotal office of Pontifex Maximus, the supreme priest of the state-religion.

The oriental cult of theocratic ideology became well ingrained into the Roman republican polity by the third century A.D., when the imperial cult of Sol Invictus (the invincible Sun deity) was firmly established and the status of Summus Deus (Supreme Deity) was accorded to the Sun among the Roman syncretic pantheon. With this process, the emperor was apotheosised, as he was believed to be the earthly manifestation of the presiding Sun deity of the Empire. Consequently, oriental forms of emperor worship and imperial absolutism were adopted. The citizens had to pay religious veneration to the emperor and their refusal amounted to high treason.

Christopher Dawson in his study, The Making of Europe, concluded that the Roman Empire at the time of Diocletian and Constantine the Great was a semi-oriental State having more in common with the Persian imperial cult than with the Roman Republic. There was no place in this form of political system to make distinction between citizen's allegiances to the State from that of religion. On the contrary, the State was believed to be omnipotent and all-inclusive “society-state” which claimed to represent the embodiment of cosmic totality under one single omnipotent authority, the deified emperor.

1.1.2. The Church in the Roman Empire

The rise of Christianity in the Roman Empire as an autonomous religious institution entitled to serve the spiritual concerns of the people, created a new political consciousness regarding a twofold loyalty the citizen owed to religion and to the State. This was unknown in the ancient world. One of the renowned political historians, George H. Sabine, remarked that seen from a historical perspective, it was not only “the most revolutionary event in the history of Western Europe, in respect to both politics and to political philosophy” but also a significant factor for the development of
the modern constitutional right to “liberty”\(^\text{13}\) as we have it under the liberal democratic political system.

The duty to respect the legally constituted authority of the State was an undoubted Christian virtue, which Christians believed, was intended by God and, therefore, deeply embedded in Christian ethics. Christ himself taught it when the Pharisees along with members of the Roman ruling class, the Herodians, attempted to entrap him into a controversy against paying tribute to Caesar. It was at that time Christ uttered to them the memorable words of wisdom: “Render therefore to Caesar the things that are Caesar’s and to God the things that are God’s.”\(^\text{14}\) St. Paul in his letter to the Romans explained further the meaning of the Christian attitude to governing authorities in general and in particular the Christian obligation to the legally constituted authority of the State:

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore he who resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers not a terror to good conduct, but to bad. Would you have no fear of him who is in authority? Then do what is good, and you will receive his approval, for he is God’s servant for your good. But if you do wrong, be afraid, for he does not beat the sward in vain; he is the servant of God to execute his wrath on the wrongdoer. Therefore one must be subject, not only to avoid God’s wrath but also for the sake of conscience. For the same reason you also pay taxes, for the authorities are ministers of God; attending to this very thing. Pay all of them their dues, taxes to whom taxes are due, revenue to whom revenue is due, respect to whom respect is due, honour to whom honour is due.\(^\text{15}\)

Similarly, the Fathers of the Church, even in the midst of state-led persecution against Christians, were emphatic on Christian loyalty to the State. They advised them to hold civil and military offices and exhorted them to pray for the well being of the emperor and for the good of the empire. St. Clement of Alexandria, for instance, remained loyal to the civil duties of the State and affirmed Christian obligation to pay taxes, to render military service when needed and to recognize the Roman law. He also claimed that if the State persecuted the Church, the hand of Providence was to be worshipped. Origen, another great theologian of the ancient Church, attempted to work out a political theology on the basis of Rom 13: 1-7, and argued that the Imperium Romanum derived its power from God.

St. Clement of Alexandria, moreover, believed that the Roman Empire exercised a providential mission to maintain unity and peace in the world to facilitate the proclamation of the Gospel of Christ. So, he affirmed that ultimately the empire was in the service of the faith. Similarly, Tertullian, who defended the freedom of Christian conscience in the face of anti-Christian empire, was profoundly convinced that the emperor’s power derived from God. He taught, moreover, that the God of the Christians was also the God of the emperor. So, he exhorted the Christians to pray for the well being of the emperor and for the continuance of the empire.\(^\text{16}\) Their faith, nevertheless, bound them to “a twofold duty… unknown to the ethics of the pagan antiquity”.\(^\text{17}\) They were not only duty bound to Caesar on matters that were Caesar’s but also to God on matters that were God’s. If the two came into conflict, their conscience bound them that their duty to God took precedence over duty to Caesar.\(^\text{18}\)

The Christian faith, therefore, contained a value that was incompatible with the Roman virtue of unlimited loyalty to the State. It meant in Ernest Barker’s phrase “the sundering of the sphere of society from the sphere of the state”.\(^\text{19}\) For the citizens who followed

\(^{13}\) Ibid., p. 166.

\(^{14}\) Mt 22:21. See also Mk 12:17; Lk 20:25.

\(^{15}\) Rom 13:1-7. See also 1 Pet 2:13-17; 1 Tim 2:1-4.

\(^{16}\) Hubert Jerdin & J. Dolen, Church History, op.cit. vol.1, pp.316-317.

\(^{17}\) George H. Sabine, op.cit., p. 164.


\(^{19}\) Ernest Barker, op.cit., p. 7.
the traditional religions of the empire, the highest duty to the State meant the highest duties of morality and religion. Its overt expression was the cult of emperor worship, who was believed to be the deified supreme civil authority, in whom were united the spiritual and temporal powers. On the contrary, for the Christians the religious duties were a supreme obligation owed directly to God. Consistent with their faith, the Christian conscience could not submit to a deified emperor “to be the court of last resort” to decide their spiritual destiny, their eternal salvation. Hence, until the Edict of Milan, which granted liberty of worship to all religions, widespread martyrdom was the price Christians paid for the freedom of conscience for which they clamoured.

For this reason, the Church in the Roman Empire advocated an institutional separation between religion and the State. This new proposal of the Church in the ancient world order arose from the Christian vision of the human person. Based on the Biblical revelation, Christians believed right from the beginning that human persons were embodied spirits endowed with spiritual and temporal natures and their corresponding needs and destinies. As embodied spirits, human persons were created in God’s image and destined for life eternal, which is not however, divorced from one’s concrete temporal life.

Grounded on the twofold essential nature of human persons, the Church claimed that society was likewise maintained by twofold orders and powers, the spiritual and temporal, to care for this twofold essential needs and destinies of the people. It follows that under this theological perspective, citizens owed a twofold duty, one to religion and the other to the State. The religious duty came under the spiritual order in loyalty to the demands of one’s conscience and the duty to the State came under temporal order in loyalty to the demands of legal enforcement required in the civil society. Both duties were qualitatively distinct and generally independent of each other as one was concerned with eternal life and the other with life temporal.

The separation, which the Church advocated between religion and the political order, meant neither hostility nor competition between the two, but rather implied to establish the jurisdiction proper to each institution, to respect their autonomy in that sphere of human life which belongs to the competence of each institution and to acknowledge their mutual support so as to ensure religious liberty of the citizens. As George H. Sabine suggests, the Church believed that both institutions were “divinely appointed agencies for the government of human life in this world and the world hereafter”. Hence, the distinction between the spiritual and temporal orders is decisive to understand the Church’s claim for its spiritual freedom and the manner of co-existence it sought to maintain with the State.

Utmost vigilance and moral courage were, therefore, needed on the part of the Church and the State to preserve the sanctity of

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21 Ibid., p. 165.
22 Emperors Constantine Augustus and Licinius Augustus enacted the Edict of Milan in the year A.D. 313. The content of the Edict reads:
“Freedom of religion cannot be restricted, and in matters pertaining to the divine, each man should be allowed to obey the dictates of his conscience… We desire that anyone wishing to practise the Christian religion should be able to do so without the slightest fear of being harassed because of it. The Christians have full liberty to practise their religion. However, what is accorded to the Christians is accorded to everyone else too. Each man has the right to choose and practise the cult that he prefers, without his honour or the convictions being attacked. Thus there will be peace in our time”.

23 The persecutions that took place during the reign of Septimius Severus, Decius, Valerian and Gallienus were in particular of religious nature against Jews and Christians who refused to comply with Emperor Cult. For detail see Hubert Jerdin & J. Dolen, *Church History, op. cit.*, vol.I, pp.217-228.
the line of jurisdiction drawn between the spiritual and temporal orders. It was a plain fact that often the line was breached for spiritual advantage or for political benefit and, as a result, jeopardized the citizen’s liberty for which the Church waged the moral war. The first of these ruptures took place in the fourth century itself when the Church resorted to the secular arm of the empire to restore its doctrinal orthodoxy against the onslaught of heresies. In the year A.D. 381, emperor Theodosius I (379-395), for instance, accorded imperial status to the orthodox Christian faith, whereas non-Christian religions were not tolerated to grow. This was the imperial policy thereafter pursued by successive Christian emperors. But several Church representatives saw the dangers involved in such a close alliance between the two.

Christianity had, therefore, not only stepped into the shoes of the ancient Roman imperial religion but also attempts were made to rationalise a Christian version of the State-cult especially in the Eastern Roman Empire. Thus the trend was set for State intervention in the ecclesiastical affairs, which was known as Caesaropapism. It was, nevertheless, to defend the autonomy of the Church in matters religious and, therefore, to safeguard freedom of conscience that the Church resolved to stop the growing menace of Caesaropapism and to re-define the kind of co-existence that ought to be maintained between the Church and the State.

Athanasius, the bishop of Alexandria, led the first of the resistance against the interference of the State in matters ecclesiastical, when emperor Constantius II (A.D.337-360) claimed for himself the title “Episcopus episcoporum” and, thereupon, appointed bishops and imposed Arianism as the faith of the empire. Led by Athanasius, the Catholic bishops of the Western Roman Empire anathematised Arianism in the Synod of Sardica in the year A.D.343, condemned the emperor’s interference in matters divine and defended the irrevocable independence and freedom of the Church in matters ecclesiastical. The Synod dispatched a letter admonishing the emperor “not to confuse the Roman government with the order of the Church, nor to impose Arian heresy into the Church of God”.

Hosius, the bishop of Cordova spearheaded the second instance of resistance against imperial interference in the matters of faith when emperor Constantius once again attempted to impose Arianism in the Church. In a letter of protest addressed to the forerunner of Byzantine Emperor cult, which came to be known as Caesaropapism. For detail see Aloys Grillmeier, op.cit., pp. 252-262; Van Leeuwen, op.cit., pp. 276-286.


Arianism is a heretical doctrine about Christ expounded by Arius, a distinguished Alexandrian priest. Arianism claimed that Jesus Christ was neither true God nor true man because Christ neither shared divine nature nor human nature. He was not the mediator between God and humankind because humanity and divinity were not united in his person. Christ was only a composite intermediary being between God and humankind in the hierarchical order of being. See Aloys Grillmeier, op.cit., pp. 219-248.


Ibid., p. 277.

Trevor Gervase Jalland, op.cit., pp.228-231.
emperor, the bishop, citing the saying of Christ, “Render therefore to Caesar the things that are Caesar’s and to God the things that are God’s”, stated, “therefore we are not entitled to govern on earth, and you, Emperor, are not entitled to sacrifice. I write to you out of care for your salvation”.38

The Western Church of the fourth century found the greatest champion of the Church’s freedom in St. Ambrose, the bishop of Milan. The conflicts that he encountered in defence of the autonomy of the Church against the position of emperors Valentinian II (383-392) and Theodosius I (379-395) were of historic importance. The bishop asserted that in matters spiritual the Church has jurisdiction over all Christians, the emperor included. In A.D.395 the bishop refusing to set aside a Church building for the empress to listen to the preaching of the Arian doctrine, asserted, “To the emperor belongs the palaces, to the priests the churches”.39 The bishop declared further, “the Emperor’s place is inside, not above the Church… in matters of faith the Bishops used to judge the Emperors not the Emperors the Bishops”.40

In the Eastern Roman Empire the Cappadocian Fathers led the movement against the religious policy of the emperor Valens (A.D.365-378) when he interfered with the freedom of the Church. St. Basil, the bishop of Caesarea, held the view that obedience to the law of the State is a duty when laws promote welfare of the society. But when the State jurisdiction oversteps its competence and opposes the divine law and, therefore, infringes on religious freedom, it must be resisted.41

The political thought that emerged from these pastoral conflicts that arose in the political arena and the theological reflection of the Fathers on the nature of relation between the Church and the State received official approval of the Church at the end of the fifth century in the writings of Pope Gelasius I (492-496). In his letter written in A.D. 489 to emperor Zeno (474-491), on matters regarding the legitimate place and the duty of a Christian Emperor in a Christian State, Gelasius I stated inter alia:

It is his (sc. The Emperor’s) business to learn what is the content of religion, not to teach it. He has received the privileges of his power on civil affairs from God, and so he should be thankful for benefits received, and not claim anything contrary to God’s order. It is God’s purpose that bishops should be responsible for the administration of the Church, not the secular powers; the latter, if they are Christian, according to his will ought to be subject to the Church and to the bishops.42

Five years later in another letter written to emperor Anastasius I (491-518), Pope Gelasius I described the distinct features of the spiritual and temporal powers and their mutual relation, which was known as the ‘doctrine of the two powers’. The pope wrote:

There are in fact two, Emperor Augustus, by whom this world is originally …governed: the consecrated authority of bishops (uctoritas sacrata pontificum) and the royal power (regalis potestas). Of these, the responsibility of the bishops is more weighty, since even for the rulers of men they will have to give account at the judgment seat of God. For you know, most gracious son, that, though in your office you preside over the human race, yet you bow your head in devout humility before those who govern the things of God and await from them the means of your salvation; you realize that in the use and fitting administration of the heavenly sacraments you ought to submit to Christian order, not to be its master … for if within the limits of the order of civil government Christian bishops appreciate that sovereignty

39 Ibid., p. 277.
42 Trevor Gervase Jalland, op.cit., p. 326.
has been conferred on you by the disposition of heaven, and themselves obey your laws, so as to prevent their seeming to resist a judgment supreme in human affairs, how greatly it befits you in your turn eagerly to give obedience to those to whom have been assigned the privileges of the sacred mysteries.43

The Gelasian doctrine holds that the society is divinely ordained to be governed by two authorities, the spiritual and temporal. The priest (sacerdotium) holds the spiritual authority and the king (imperium) exercises the temporal authority.44 Both authorities are believed to be subject to law. The spiritual authority is to be exercised in accord with the divine law and the temporal authority in accord with the natural law to fulfil their necessary functions in the government of the State so as to respond to the twofold needs of the people.45

Under Christian dispensation, no person can possess both jurisdictions. The twofold jurisdictions ought to remain distinct and inviolate, but mutually to respect and support the rights God has ordained to each realm for the good of the people. Among the two, the spiritual jurisdiction is superior in dignity as it deals with the eternal destiny of the people in accord with one’s conviction of conscience.46

For almost a thousand years, the canonists relied on Gelasian doctrine to settle recurrent claim for supremacy that arose between the Church and the State. This was particularly the situation in the Middle Ages. Thus the Gelasian doctrine asserted the individual’s right to spiritual autonomy and freedom over which the temporal jurisdiction has no competence. The doctrine, therefore, set the term for the development of the concept of “individual privacy and liberty”47 as we have it in the modern political system.

43 Ibid., pp. 326-327.
44 George H. Sabine, op. cit., p. 199.
46 Ibid., p. 174.
47 Ibid., p. 175.

1.1.3. The Medieval Church-State Controversy

The Middle Ages were known for the remoulding of Europe out of the chaos that befell from the breakdown of the Western Roman Empire. The Church was the sole institution equipped with a high organizational potential, which emerged from the collapse of the Roman Empire, carrying with it the cultural and spiritual heritage of the classical age. The Church committed itself in the task of reshaping the socio-cultural, political and spiritual fabric of the young European feudal States. Feudalism began to settle itself as a more definite form of socio-political system from which were to arise, eventually, the institution of the nation-state and the constitutional principles that were carried forward from the Middle Ages into modern Europe.48

The medieval European world, which was re-constructed by the Church, was conceived as a universal Christian society, the collective body of the Christian society-state (Christendom). For unlike in the past, the Church was believed to be more than a voluntary body of believers but treated as co-extensive with the expanse of the empire itself. Under theocracy, this society-state had two heads, the Pope and the emperor. They represented two principles of authority, the spiritual and the temporal in the society. They were considered as forming two governments each with its own hierarchy, laws and jurisdictions, both ruling the universal Christian society.49 Among them the secular power was expected to be at the service of divine truth.50 It is no surprise that this form of governance occasioned for frequent interference and heightened controversy between the spiritual and temporal powers, not in defence of the freedom proper to each order but for the claim of supremacy over the Christendom.

Thus in the Carolingian age, the State consistently interfered in matters ecclesiastical while the Church to a great extent controlled the affairs of the State. It was Pope Leo III who in the year 800

49 Ibid., p. 199.
50 Ibid., p. 201.
A.D. re-established the Holy Roman Empire once again in the West by crowning Charlemagne emperor of the universal Christian world.\textsuperscript{51} But to reject the subordination of imperium to sacerdotium, Charlemagne crowned his son, Louis Pious, emperor.\textsuperscript{52} The claim for ecclesiastical supremacy over secular order became so strong that at the end of the ninth century the papalists modified the doctrine of two powers of Gelasius I (492-496). They argued that all authority was originally vested in the Church. Retaining the spiritual authority, the Church handed over the temporal authority to the State. On the contrary, the imperialists claimed that God directly gave both powers to the Church and the State respectively.\textsuperscript{53}

The lay Investiture controversy,\textsuperscript{54} which rocked the Western Christendom in the eleventh century over the choice of bishops by the secular authorities, was another manifestation of the prevailing Church-State interference and control in the Middle Ages. The controversy precipitated in the armed struggle emperor Henry IV had with Pope Gregory VII. The later advocated in his document, \textit{dictatus Papae},\textsuperscript{55} the supremacy of the papal authority on the ground that the spiritual order was superior to temporal order. The document stressed that the Pope had the power to depose unworthy Christian rulers.

The Concordat of Warms, which was signed in the year 1122\textsuperscript{56} during the reign of Pope Calixtus II and emperor Henry V, settled the Investiture controversy. The terms of the settlement distinguished in the appointment of the bishops the spiritual elements and authority that belonged to the Church alone from the temporal office attached to it. The Concordat excluded the interference of the State in ecclesiastical matters and acknowledged the supremacy of the spiritual order.\textsuperscript{57}

In fact, the Concordat of Warms was only an armistice. This was particularly true in the thirteenth century when the powerful Hohenstaufen emperor Frederick II, who was very much under the influence of Islamic civilization, revived once again Charlemagne’s supremacy controversy. He pronounced himself to be the priest-king, under the call of God and having an authority derived directly from God, not mediated by the Pope.\textsuperscript{58}

Frederick II claimed that as \textit{Vicarious Christi}, the emperor was not only above all kings, but also above the Pope himself. Frederick II stressed further that it was his messianic mission to restore the divine order in the Christendom and to revive the universal dominion of Augustus as lord and saviour of the world. His dream, however, ended in the complete collapse of his empire, just as half a century later the spiritual superiority of a similar kind on the Pope’s part led to a most wretched disaster. In the long run, Caesaropapism and Papocaesarism turned out to be not merely incompatible, but even mutually destructive.\textsuperscript{59}

Consequently, at the end of the thirteenth century, the controversy over spiritual supremacy shot up once again but in another form, when Pope Boniface VIII clashed with King Philip the Fair of France. This time the Pope was not challenged by the emperor but by a national king on the appointment of a bishop against the wishes of the king. In defence of the episcopal appointment, in his Bull, “\textit{Ausculta Fili}”, Boniface VIII mentioned “the unconditional superiority of the papal power over every secular power”.\textsuperscript{60} Against the papal claim, Philip called for a session of the State-General to defend himself and to declare the Pope a criminal. This incident marked decisive victory of the State’s supremacy over ecclesiastical authority on political matters at a time when the concept of nation-state and national monarchy were gaining}

\textsuperscript{51} Hubert Jedin & J. Dolen, \textit{Church History, op.cit.}, vol. 3, pp. 93-94.
\textsuperscript{52} \textit{Ibid.}, p. 101.
\textsuperscript{54} Hubert Jedin & J. Dolen, \textit{Church History, op.cit.}, vol. 3, pp. 393-397.
\textsuperscript{55} Trevor Gervase Jalland, \textit{op.cit.}, pp. 397-398.
\textsuperscript{56} Hubert Jedin & J. Dolen, \textit{Church History, op.cit.}, vol. 3, p. 400.
\textsuperscript{57} \textit{Ibid.}, p. 401.
\textsuperscript{58} A.T. van Leeuwen, \textit{op.cit.}, p. 286.
\textsuperscript{59} \textit{Ibid.}, p 287.
\textsuperscript{60} H.Jerdin & J. Dolen, \textit{op.cit}, vol. 4, p. 276.
currency in Europe. The aggrieved Pope in retaliation published the Bull, *Unam Sanctam*, which reiterated the medieval hierarchical order and hierocracy of the Western Christendom. Once again, *Unam Sanctam* revived the unitarian concept of the society-state in which religion and society were treated as fused together into one monolithic organization under the supreme power of the Pope.

The claims of the papacy for supremacy over temporal order as advocated by Boniface VIII were excessive and not in accord with the doctrine of the two powers developed from the time of pope Gelasius I (492-496). These were opposed by the sovereign State monarchies that sprang up in the following centuries. One of the thinkers who challenged on the legitimacy of hierocracy and contributed to the idea of secular State in the fourteenth century was Marsilius of Padua. He defended the independence of the secular society as good and necessary in itself apart from sanction by the Church. The fourteenth century secular thinker, Marcius of Padua, emphasised that in secular matters the Church was subject to civil jurisdiction.

In his work, *Defensor Pacis* (1324), Marsilius of Padua distinguished between divine and human laws. Divine law is enforced only by the rewards and punishments, which God renders in the next life. Hence, no temporal compulsion can be used to enforce religious tenets. He declared, “The rights of citizens are independent of the faith they profess; and no man may be punished for his religion.” These are, in fact, the two principles fundamental to the modern concept of secular State. The political thought of the *Defensor Pacis* was too radical to exert an immediate influence in the medieval Christendom, but indirectly it had a great and far-reaching effect. At any rate, the hierocracy of medieval Christendom could no longer withstand the economic, political, intellectual and religious forces led loose by the modern age. Among them, the Protestant Reformation singularly stands out for our study, which scattered the monolithic faith of Western Christendom and accelerated the pace of modern spirit of awaking in the Western society.

1.1.4. The Reformation: Religious Diversity and Secularisation

The Protestant Reformation of the sixteenth century was primarily a religious revolt to reform the Western Christendom. The secularisations of the State and religious tolerance were not even the remote concerns of the Reformers. Apart from transforming the centre of authority from the Pope to the Bible as interpreted by each Reformer, no new notion of religious liberty was expounded by them. Commenting on the prevailing mentality, George H. Sabine wrote:

> The belief was general on the side on the churchmen that pure doctrine ought to be maintained by public authority, and on the side of statesmen that unity of religion was an indispensable condition of public order. Where the government of the Roman Church was broken the maintenance of the faith became a charge on the civil authorities, because no one else could do it. In effect, the decision as to what is pure doctrine passed largely to secular rulers. When this was honestly attempted, government became charged with the impossible task of deciding what religious truth is, and when it was not honestly done, politicians were given an infinity of troubled water to fish in.

Martin Luther, who propagated freedom of conscience, opposed it when he entered into political alliance with German princes and advocated the duty of passive obedience to civil authority: He wrote:

> It is no wise proper for anyone who would be a Christian to set himself up against his government, whether it acts justly or unjustly.

> There are no better works than to obey and serve all those

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61 Ibid., p. 277.
62 For an analysis of the of the political thought of Marsilius of Padua, see George H. Sabine, *op.cit.*, pp. 250-264.
63 Leo Pfeffer, *op.cit.*, p. 18.
64 Hubert Jedin & J. Dolen, *op.cit.*, vol. 4, p. 363.
who are set over us as superiors. For this reason, also, disobedience is a greater sin than murder, unchastity, theft, and dishonesty, and all that these may include.66

Moreover, he relied on the secular arm of the Protestant princes to crush Catholicism. His disruption of the universal order of the Western Church, the suppression of its monastic institutions and ecclesiastical corporations, and the abrogation of the Canon Law, removed the strongest checks upon the State that had prevailed in the Middle Ages.

In like manner, John Calvin set no limit upon the power of the State. He believed as emphatically in the duty of passive obedience to civil authority as Martin Luther. In its initial form, Calvinism not only condemned resistance to civil government but it lacked a political theory disposed towards liberalism, constitutionalism or representative principles. Where Calvinism had free choice, it developed characteristically into a theocracy, a kind of oligarchy maintained by an alliance of the clergy and the gentry from which the mass of the people was excluded. This was the nature of Calvin’s own government in Geneva and of Puritan government in Massachusetts.67

In this respect, John Calvin’s theory of the Church was more in the spirit of extreme medieval ecclesiasticism of the Western Christendom than that held by nationalist Catholics. According to him the first duty of the State was to maintain the pure worship of God and to uproot idolatry, sacrilege, blasphemy, and heresy.68 The emphasis in his enumeration of the objectives for which the power of the State existed is surprising to read in what he wrote in his Institute:

It is the purpose of the temporal rule, so long as we live among men, to foster and support the external worship of God, to defend pure doctrine and the standing of the Church, to conform our lives to human society, to mould our conduct to civil justice, to harmonize us with each other, and to

66 Cf. Ibid., p.310.
67 Ibid., p. 311.
68 Ibid., pp.316-317.

preserve the common peace and tranquillity.69

The immediate consequence of the Reformation in connection with the creation of secular state was, however, the denominationalization of the Western Christendom into Catholic and Protestant, out of which emerged several independent confessional princely States based on ecclesiastical territories. As opposed to the medieval arrangement, according to which the bishops had been civil as well as ecclesiastical princes, the lay princes now became civil princes of the territorial Churches or national Churches. Each of them had its own centres of learning with theological faculties and jurisprudence, which offered authoritative interpretation of the Bible and of the Canon Law.70 Describing the nature of the Western society during the early Reformation period Hedrick W. van Loon wrote:

There had been one universal spiritual and intellectual prison-house. The Protestant rebellion had ruined the old building, and out of the available material it had constructed a gaol of its own. After 1517 there are, therefore two dungeons, one reserved for the Catholics, the other for the Protestants.71

Arend T. van Leeuwen describes that this was the prevailing situation at the time when the princes kept a close watch on the Church and society lest their subjects deviate from the confessional faith of their respective States.72

The Protestants assumed, as did the Catholics, that religion was a binding force for civic cohesion. They could neither think of a body politic apart from homogeneous religious society, nor could they rationalise citizenship independent of religious affiliation. Heinrich A. Rommen points out that Catholics and Protestants carried on medieval Christendom but in territorial forms.73

69 Cf. Ibid., p. 312.
70 Arend T. van Leeuwen, op.cit., p. 302.
72 Arend T. van Leeuwen, op.cit., p. 303.
retrospectively, the confessional faith reproduced once again, at the beginning of the modern age, the pre-Christian Greco-Roman *polis* and *civitas* in Christian garb. Church historians Hubert Jedin and John Dolen were correct in reminding us that the peace of Augsburg (1555), which compromised the Catholic and Lutheran claims in the German States, translated the medieval Catholic and Protestant political thoughts into concrete political policy. For the territorialism of the peace of Augsburg was solely based on the policy of *cujus regio ejus et religio*, and accordingly religious minorities were compelled to immigrate to States professing their respective faiths.

As a matter of fact, neither the Augsburg peace nor the division of Christendom into two confessions could last for long. As Hubert Jedin and John Dolen remind us, the spirit of Reformation, in the course of time, created multiple fractures in the medieval edifice of the *Corpus Christianum Romanum*. This produced multiplicity of denominational Churches, each professing their own conflicting faith claims. These were often mutually antagonistic in their faith and Church-order. Therefore, under the aegis of denominational claim, pluralism of denominational faith became a matter of political fact to be reckoned with in the Western European polity.

Many States had, moreover, sizable religious minorities. So, the States could no longer be a Catholic or Protestant only, nor could they legitimate any single confessional faith as the religion of the realm by marginalizing others. This could have caused not only civil war but also fratricide, which would have endangered social harmony and civic amity. Herbert Raab, who wrote on the history of *Attempt at Church Reunion* in the seventeenth century observed:

Tolerance became the political motto of state in the denominationally mixed territories and in the flourishing mercantilist thinking. The idea of the authority of the state began to surmount denominational limits and prejudices.

Under these circumstances, mutual toleration of faith arose as a matter of historical expression of religious liberty. Commenting on the slow process of secularisation of the medieval State in Europe, George H. Sabine wrote:

In most parts of northern Europe it [Protestantism] produced relatively strong religious minorities, bodies too numerous to be coerced without endangering public order and quite as determined as the party in power to gain for its own faith the benefits of legal establishment. Every such body was, for obvious reasons, a political source of disorder, and every religious difference was, at the same time, a political issue. Only slowly and under the compulsion of circumstances that permitted no other solution did a policy of religious toleration emerge, as it was discovered that a common political loyalty was possible to people of different religions.

Some ideas towards secular State also arose from the dissident sects of the Reformed Churches, known as the free-Churches. These were the Congregationalists, Baptists and Quakers of England, etc. Some of them propagated the belief that the Church was a spiritual association of believers grouped in autonomous Congregations. They believed that a body of Christians could form a Congregation, which would be a true Church. It could ordain its clergy, and set up a reformed mode of worship, without authorization either by civil magistrates or ecclesiastical authority. In principle, therefore, the Church was seen as a voluntary association of like-minded believers.

This sort of ecclesiastical perspective enabled the free-Churches to renounce the support of the civil authorities either in reforming themselves or propagating their practices to others. These Ecclesial Communities argued that, as spiritual associations, the Church for its existence neither required the coercive power of the State nor its hierarchical authority. Ecclesial activities were carried

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77 *Ibid.*, vol. 6, p. 510.
on in these sects by democratic process. A petition submitted
by a Baptist in 1614 to King James I of England points out:

Kings and magistrates are to rule temporal affairs by the
swords of their temporal kingdoms, and bishop and ministers
are to rule spiritual affairs by the word and spirit of God, the
sword of Christ’s spiritual kingdom, and not to intermeddle
one with another’s authority, office, and function.

This statement of the Baptist clearly emphasized that the nature
and function of the Church and the State were different and,
therefore, the distinction between the two powers were to be
respected. Anson P. Stokes who did an extensive research on the
free-Church movements in the United States of America points
out that this sort of Ecclesial Communities eventually flourished in
that country as being freed from European mainland.

Critical thinking of various philosophers of the seventeenth and
eighteenth centuries also made significant contribution for the cause
of religious liberty and Church-state separation. George H. Sabine
highlights that the empiricism of John Locke, Francis Bacon and
David Hume, the rationalism of Rane Descartes and Immanuel
Kant and the utilitarianism of Jermy Bentham, Thomas Paine and
John Stuart Mill provided liberal intellectual frameworks for the
process of secularisation of European society. These philosophers
affirmed, against medieval dogmatism, the importance of empirical
knowledge in establishing truth and defended the right to freedom
of inquiry and autonomy of individual’s reason and conscience.

Suffice for us to indicate here the contribution of John Locke,
the first among the advocates of religious toleration. Speaking on
religious toleration needed in the Church of Christ he wrote:

I esteem that toleration to be the chief characteristic mark
of the true Church. If the gospel and the apostles may be
credited, no man can be a Christian without charity and
without that faith which works, not by force, but by love.

Though if infidels were to be converted by force, if those
that are eitherblind or obstinate were to be drawn off from
their errors by armed soldiers, we know very well that it
was much more easy for him to do it with armies of heavenly
legions than for any son of the Church, how potent so ever,
with all his dragoons.

The toleration of those that differ from others in matters of
religion is so agreeable to the gospel of Jesus Christ, and to
the genuine reason of mankind, that it seems monstrous for
men to be so blind as not to perceive the necessity and
advantage of it in so clear a light.

Stressing the need for the separation of religion from the State
to settle the problem of national Churches, John Locke argued that
the separation of the Church from State was a requirement inherent
in their distinct natures and the different functions they had in the
society. So, in his Letter concerning Toleration he continued to
state:

I esteem it above all things necessary to distinguish exactly
the business of civil government from that of religion and to
settle the just bounds that lie between the one and the other…on
the one side, a concernment for the interest of
men’s souls, and, on the other, a care of the
commonwealth. The commonwealth… to be society of men
constituted only for the procuring, preserving, and advancing
their own civil interests. Civil interests I call life, liberty, health
and indolency of body; and the possession of outward things,
such s money, lands, house, furniture, and the like. It is the
duty of the civil magistrate, by the impartial execution of
equal laws, to secure into all people in general and to every
one of subjects in particular the just possession of these things

79 Ibid., pp. 378-379.
80 As quoted in Anson Phelps Stokes, Church and State in the United States
81 Ibid., pp. 114-127.
83 John Locke, “A Letter concerning Toleration,” in Great Books of the Western
World, ed., Robert Maynard Hutchins (Chicago, Encyclopaedia Britannica,
belonging to this life.

The care of souls is not committed to the civil magistrate, any more than to other men... Nor can any such power be vested in the magistrate by consent of the people, because no man can so far abandon the care of his own salvation as blindly to leave to the choice of any other, whether prince or subject, to prescribe to him what faith or worship he shall embrace.

The care of souls cannot belong to the civil magistrate, because his power consists only in outward force; but true and saving religion consists in the inward persuasion of the mind... Confiscation of estate, imprisonment, torments, nothing of that nature can have any efficacy as to make men change the inward judgment that they have framed of things.84

John Locke’s “An Essay Concerning The True Original Extent And End Of Civil Government”85 which became the Bible of modern liberal democracy laid great stress on the equality of all people, individual’s inalienable right to life, health, liberty and property upon which a legitimate government would not dare to encroach.86 Hence separation between the Church and the State came to be interpreted in terms of a broader understanding of the natural rights of people and the nature of society and State.

Hubert Jedin and John Dolen stressed also on the important contribution made by the advance of natural sciences for the creation of secular State. For these disciplines of thought grew with no affiliation to ecclesiastical dogmatism, but based themselves on empirical observation and mathematical computation that set the rubrics for the legitimation of secular sciences and paved the way for secularisation of thought and for the creation of secular polity.87 Analysing the impact of the natural sciences on the process of secularisation of seventeenth century Europe, historian Arnold Toynbee wrote that science replaced religion as “the paramount interest and pursuit of the leading spirits in the Western society”.88 All these factors had a cumulative effect to sunder the Church-State hegemony of medieval Christendom. But for the most significant events, which led to the establishment of the secular State, we must now pay our attention to the American experiment.

1.1.5. The Separation of the Church from the State

It was left to the political wisdom of the people of America, first among other nations, to commit themselves to a State, which was constitutionally secular and separate from religion. Various indigenous factors were instrumental to arrive at this solution. The Pilgrim Fathers, who inherited the European traditions, transplanted the European model of a close union between the Church and State in most colonies of America. This model brought a twofold pattern in the political scenario of the New World: (1) a close union between a denominational Church and a State within a colony which provided limited tolerance or no tolerance to dissenters and (2) denominational diversity from one colony to another.89 Eventually American society became religiously plural90 as believers of almost all denominational Churches and sects were found scattered throughout all States.

Christopher H. Dawson suggested that religious leaders such as Roger Williams and William Penn, who founded the colonies of Rhode Island and Pennsylvania respectively, followed a radically secular view of the State. They advocated the separation between the Church and State and practiced it as a matter of political policy in their colonies.91 Moreover, many Reformed Churches, especially the Baptists and Presbyterians, propagated the principle of separation as an article of faith. Evarts B. Greene adds that Deists and Unitarians from their respective faith point of view opposed

84 Ibid., pp. 2-3.
85 Ibid., pp. 25-79.
86 Ibid., pp. 25-28.
89 Donald E. Smith, op.cit., p. 15.
the spiritual tyranny of those Churches that promoted their respective orthodoxies with the aid of the coercive arm of the State. The political philosophy of John Locke and the Enlightenment from France had due impact on the American society.92

All these factors together influenced to reduce the dogmatism and fanaticism of religious groups, and contributed to create the American environment for a liberal democratic polity at the time when the newly independent States confederated to establish the United States of America under Federal Government.93 John Courtney Murray commented that in the emerging political climate of the American nationalism, the public consensus stressed, “civil unity and religious integrity”94 under a Federal Constitution in such a manner that the former did not hinder the various religious communities in the American society in the maintenance of their distinct religious identities. This inevitably implied in the American milieu separation of religion from the State.

The principle of separation won popular acceptance by 1786 when political agitation for separation was successfully carried out by James Madison and Thomas Jefferson. Madison in his Memorial argued out his position on separation and stated:

Religion is wholly exempt from the cognisance of Civil society… whose authority is necessarily subordinate to the individual’s allegiance to the Universal Sovereign…Since religion is exempt from the authority of the society at large, still less can it be subject to that of the Legislature Body whose jurisdiction is both derivative and limited…Since religion is not within the cognisance of Civil Government…its legal establishment cannot be necessary to Civil Government.95

It is surprising to note that Madison’s Memorial echoed the Gelasian theory. The Memorial stressed the separation between the spiritual and temporal realms with their respective authorities and loyalties in that the temporal authority was placed subordinate to citizen’s spiritual loyalty. Madison’s injunction, nevertheless, was that since religion was not within the previews of civil jurisdiction, its legal establishment was not required to form the civil government.

1.1.5.1. The U.S. Supreme Court on the “Establishment Clause”

The secular provision of the U.S. Constitution implies that the framers of the Constitution wanted to establish a wall of separation between the Church and the State. The Constitution, which was ratified and adopted in 1787, contained no reference to religious affiliation. Consequently, the United States of America became a secular State in the sense that no religious test was required to hold public office.96

The First Amendment made the secular intent of this provision explicit in the Constitution that declared non-interference of State in the matters of religion. The Amendment states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof…”97 The non-interference provision was extended to all the States by the due process clause of the Fourteenth Amendment to the Constitution adopted in 1868, which provided that no State was to deprive any person of life, liberty or property “without due process of law”.98

The First Amendment to the U.S. Constitution contains two

93 For an exhaustive study of these and other factors instrumental in creating a secular atmosphere needed for liberal democratic polity in America see Anson P. Stokes, Church and State in the United States, (New York: Harper & Brothers, 1950), pp. 65-357.
94 John C. Murray, We Hold These Truths, op.cit., p. 55.
95 As quoted in Leo Pfeffer, Church, State and Freedom, op.cit., pp.99-100.
96 “No religious test shall ever be required as a qualification to any office or public trust under the united States”. Article VI, 3, Constitution of the United States of America (1787)
97 First Amendment to the Constitution of the United States of America (1797).
98 “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law”. Fourteenth Amendment to the Constitution of the United States (1898).
essential principles, which constitute the typical secular character of the United States of America. They are the “establishment clause” and “free exercise clause”. The former forbids the State from establishing or preferring any religion and the latter prohibits the State from interfering in the individual and corporate freedom of religion. The principle of religion-state separation and religious freedom are concisely linked up in this provision.

President James Madison explained, for instance, that the First Amendment meant a “separation between religion and Government” and that “religion is a private affair”. Similarly, in 1802 President Thomas Jefferson interpreted the meaning of the First Amendment to the Danbury Baptist Association in the following words:

I contemplate with sovereign reverence that act of the American people which declared that their Legislature should ‘make no law respecting an establishment of religion or prohibiting the free exercise thereof’, thus building a wall of separation between Church and State.

In another letter written to a Presbyterian clergyman in 1808 he re-affirmed his position on the First Amendment and said:

I consider the Government of the United States has been interdicted by the Constitution from meddling with religious institutions, their doctrines, disciplines, or exercises...Certainly, no power to prescribe any religious discipline, has been delegated to the General Government.

These statements of James Madison and Thomas Jefferson mean that under the system of religion-state separation as given in the U.S. Constitution, the State has no power to deal with matters religious. The Constitution forbids the State from making any law and taking any executive action that involves the interlocking of the functions of the State with the institutional functions of any religion.

The Supreme Court of the United States in number of instances has given statements on the various constitutional and institutional meaning of the principle of separation between religion and the State as intended in the establishment clause and free exercise clause of the First Amendment. While issuing its verdict the Supreme Court frequently enjoined the mind of the framers of the Constitution, relaying often on the statements of James Madison and Thomas Jefferson. Suffice here for our work to refer to some of the illustrious judicial decisions of the U.S. Supreme Court to understand the political philosophy of secular State as enshrined in the U.S Constitutions.

1.1.5.1.1. Transportation Facility to Parochial School

In Everson v. Board of Education, the constitutionality of a statute of the Board of Education that provided State transport facility to parochial school children was challenged before the U.S. Supreme Court. Following are the facts of the case. The transportation of children to public schools was initially the responsibility of their parents. This, however, caused difficulties to children living in distant places. So, the New Jersey State statute authorized the local board of education to transport parochial school children to nearest public school. In Everson v. Board of Education of the Township of Ewing, 330 US 1 (1947), the Supreme Court held that the provision of the statute was violative of the First Amendment.


99 It is also referred to as “non-establishment clause”. See P.C. Jain, Religion and Law, op.cit., p. 7.
100 As quoted in Leo Pfeffer, Church, State and freedom, op.cit., p. 119.
102 As quoted in Leo Pfeffer, Church, State and Freedom, op.cit., p. 224.
of education to provide free transport facility to children if they were living at remote places from their schools. This facility applied to all children except those attending schools run for profit. Acting under this statute, the School Board of Ewing Township passed a resolution providing for the transportation of children from township to the public and Catholic Schools at Trenton, a nearby township. The township did not provide its own buses, but allowed reimbursement of the cost of public conveyance to the parents of children attending public and Catholic schools at Trenton. Mr. Arch R. Everson, a district tax-payer filed a case against the Ewing Board of Education on the ground that the Board had reimbursed parents when their children used transport facility to study in a denominational school. The action of the Board, he alleged, violated the First Amendment and amounted to an establishment of religion. The case ultimately reached the U.S. Supreme Court for hearing.\textsuperscript{104}

By a 5 to 4 decision, the U.S. Supreme Court upheld the validity of the statute on the ground that the law was intended to protect children and, therefore, the provisions of the said statute came under public welfare measure.\textsuperscript{105} On this occasion, the Court and the dissenting judges, however, dealt in detail on the meaning of the separation between the Church and the State as implied in the establishment clause of the First Amendment. Mr. Justice Black delivering the majority opinion of the Court said that the separation between the Church and the State implied:

Neither a State nor the Federal Government can set up a church. Neither can pass laws, which aid one religion, aid all religions, or prefer one religion over another… No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practise religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or group and vice versa… New Jersey cannot consistently with the “establishment of religion” clause of the First Amendment contribute tax-raised funds to the support of an institution that teaches the tenets and faith of any church… State power is no more to be used so as to handicap religions than it is to favor them.\textsuperscript{106}

Commenting on the public purpose involved in the \textit{Everson v. Board of Education} case, Mr. Justice Black was of the opinion that the Courts should be very cautious when judging the public purpose which the legislature had in view. The free transportation granted to the New Jersey Statute was for the welfare of the children regardless of their religion.\textsuperscript{107} He admitted, however, that a State statute “Cannot consistently with the establishment of religion clause of the First Amendment contribute tax-raised funds to the support of an institution which teaches the tenets and faith of any church.”\textsuperscript{108} Nevertheless, he hastened to add that a law:

[C]annot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith or lack of it, from receiving the benefits of public welfare legislation.\textsuperscript{109}

Mr. Justice Black maintained that a Court couldn’t prohibit the State from extending its general benefits to all its citizens without regard to their religious belief. Speaking for the majority opinion of the Court he concluded, “measured by these standards”,\textsuperscript{110} that the New Jersey Statute in providing tax-paid transport facility to school children who also included the parochial school children, was not prohibited by the establishment clause of the First Amendment.

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\textsuperscript{104} Arch R. Everson v. Board of Education of the Township of Ewing, 330 US 1 (1947)

\textsuperscript{105} Ibid., at 1-3.

\textsuperscript{106} Ibid. at 15, 16, 18.

\textsuperscript{107} Ibid., at 18.

\textsuperscript{108} Ibid., at 16.

\textsuperscript{109} Ibid., at 17.

\textsuperscript{110} Ibid., at 17.
Mr. Justice Jackson and Mr. Justice Rutledge gave their dissenting opinions separately. Mr. Justice Jackson pointed out that the majority opinion was for “complete and uncompromising separation of church and state”, but its conclusions gave “support to their commingling in educational matters”.111 Taking his views further he said that the principle of separation was intended to achieve a dual end, which was “to keep the state’s hands out of religion” and also “to keep religion’s hands off the state”.112 Moreover, he pointed out, “If the state may aid these religious schools, it may therefore regulate them”113 which would be against, he cautioned, the very essence of the principle of separation as implied in the First Amendment.

Mr. Justice Rutledge in his dissent concurred with Jackson, J., and opined that both the New Jersey Statute and the school Board resolution were obnoxious. He stressed that the Constitution erected a “wall of separation.” Further, he reminded the Court that the decision in the textbook case114 made the first breach in the wall, and the instant case115 would be a second breach. The purpose of separation, he stressed, was to separate completely the sphere of religious activity and civil authority. The prohibition implied in the

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1.1.5.1.2. Release Time Programme for Religious Instructions

In *McCollum v. Board of Education* the constitutionality of a system of “release time programme” that was drawn by the school authorities to teach religion in public school premises was challenged before the U.S. Supreme Court. The case history of *McCollum v. Board of Education* is as follows.118 In 1940 the Jews, Roman Catholics and some Protestant sects of Champaign County, Illinois, formed a voluntary association called the Champaign Council on Religious Education. The Council obtained permission from the Board of Education to have classes on religious instructions for public school children during the regular hours on one day of the week. The children who received parents’ consent were “released” (30 minutes release to lower grade and 45 minutes for higher grade) from their secular study. During this time, religious instructions were given to them in the school premises. The children whose parents did not consent to it were not released and they had to attend regular classes. Mrs. Vashti McCollum, the mother of Terry McCollum, a ten-year-old student, registered her objection to this arrangement to impart religious instructions on the ground that she was an atheist. She, therefore, challenged the constitutional validity of the “release time programme” before the U.S. Supreme Court in the year 1948. This was the first case of this sort that appeared before the Supreme Court.

By a majority of 8 to 1 decision the Court declared that the system infringed upon the establishment clause of the First

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Amendment and the Court once again re-affirmed the meaning of Church-State separation as rendered earlier in *Everson v. Board of Education*. Mr. Justice Black who presented the majority opinion of the Court in the instant case said:

Pupils compelled by law to go to school for secular educations are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment as we interpreted it in *Everson v. Board of Education*.\(^{119}\)

Mr. Justice Frankfurter who concurred with the majority opinion observed that though there were about 250 sects and denominations in the country, under the Champaign system of “release time programme” only a few of them were entitled to instruct in religious matters which, he considered, amounted to a discrimination among the sects. He further emphasized that even if the system did not incur discrimination, the establishment clause prohibited all aid to religion. He added, “Separation is a requirement to abstain from fusing functions of Government and religious sects, not merely to treat them all equally… Separation means separation, not something less.”\(^{120}\)

Mr. Justice Jackson, who also concurred with the majority opinion of the Court, took a view that is significant. He said that although religion could not be eliminated altogether from education, yet the “Champaign system” must be held unconstitutional. But he indicated in his observation that one need to have a religion friendly approach in secular education on the ground that it would not seem practical to teach the arts like music or architecture if we were to forbid the students to any religious influence.\(^{121}\)

The question of separation between Church-State was once again raised in the U.S. Supreme Court in *Zorach v. Clauson* case. The history of this case is as follows. The facts of this case were almost same as in the *McCollum v. Board of Education*, 333 US 203 (1948). The *Zorach v. Clauson* case also arose out of a “release time programme” arrangement to impart religious education. This was arranged between the public schools and some religious organization in New York City. To this effect, the State Commissioner of Education and the New York Board of Education framed regulations. Under these regulations, religious instructions might be given at the released time outside the school premises to students with parents’ consent. This arrangement involved only a time adjustment between the public schools and the religious centres. On the contrary, in *McCollum v. Board of Education* case the religious teacher came to the school, used public school classrooms or premises.

However, one of the petitioners, Mr. Tessim Zorach, a member of the Episcopal Church, whose son studied in one of the New York city schools, framed a case on the ground that according to the decision given to *McCollum v. Board of Education* case, all forms of release time programme for religious purpose were *per se* contrary to the First Amendment. In the year 1952, this case was appealed to the U.S. Supreme Court.\(^{122}\)

By a majority of 6 to 3, the U.S. Supreme Court upheld the constitutional validity of the system in the present case. Mr. Justice


\(^{120}\) Ibid., at 227, 231.

\(^{121}\) Ibid., at 235.

\(^{122}\) Ibid., at 236.

\(^{123}\) *Tessim Zorach v. Andrew G. Clauson*, 343 US 306 (1952)
Douglas, who gave the majority judgment, distinguished certain features of the *McCollum v. Board of Education* case from the present case under judicial consideration. He commented that in the former case the tax-paid amenities of the public schools were used to teach religion, while in the present case, he indicated, “no religious exercise…. is brought to the class rooms of the public schools.”

He further added:

Here as we have said, the public schools do no more than accommodate their schedules to the programme of outside religious instruction. We follow the *McCollum case*. But we cannot expand it to cover the present release time programme unless separation of the Church and State means that public institutions can make no adjustments of their schedules to accommodate the religious needs of the people. We cannot read into the Bill of Rights such a philosophy of hostility to religion.

Therefore, Mr. Douglas, J., concluded, that the New York system did no more than to accommodate the public school schedules to public interest. Hence, it did not infringe upon the establishment clause of the First Amendment. Moreover, he stressed that separation did not amount to hostility to religion.

Messrs. Black, Frankfurter and Jackson, JJ, voiced their dissent. Mr. Justice Black who delivered the majority judgment in the *McCollum case* said that there was hardly any difference in the *McCollum case* and the instant case. He re-asserted that the principle laid in the *McCollum case* and claimed that in a compulsory public school system, the students were not to be released for religious instruction. Hence, he came to the conclusion that the New York system was a clear violation of the establishment clause. He stated:

In considering whether a state has entered this forbidden field the question is not whether it has entered too far but whether it has entered at all. New York is manipulating its compulsory education laws to help religious sects get pupils. This is not separation but combination of Church and State…State help to religion injects political and party prejudices into a holy field. It too often substitutes force for prayer, hate for love, and persecution for persuasion. Government should not be allowed, under cover of the soft euphemism of “co-operation” to steal into the sacred area of religious choice.

Mr. Justice Black’s contention was that the time-slot allotted to religious instruction involved a manipulation of the compulsory education laws to help religious sects to get children for religious instruction. It amounted to using the coercive power of the State covertly for religious purpose, which has been forbidden by the First Amendment.

Mr. Justice Frankfurter who gave the dissenting opinion was critical of the majority judgment delivered by Mr. Justice Douglas. He indicated that in the instant case, the formalized religious instruction was substituted for secular school activity and those who did not attend the religious instruction were kept inside the school. This amounted to an aid to religion, which was proscribed by the establishment clause. He wished that in future the Supreme Court might change its views as the majority opinion in the present case had not disapproved of the judgment given in the *McCollum case*, and would hold that all released time programme infringed on the establishment clause of the First Amendment.

### 1.1.5.1.3. Prayer at Public Schools

The Principle of Church-State separation as contained in the establishment clause of the First Amendment to U.S. Constitution was raised once again in another case in connection with reading prayer in public schools. Following is the matter of the case.

In the United States the controversy over holding prayers, Bible reading and other forms of religious activities in the public schools...
occurred on account of strained relationship between the Catholics and Protestants. The question of the constitutional validity of reciting prayers in public schools arose in precise terms before the U.S. Supreme Court in 1962 in *Steven J. Engel v. William J. Vitale*. In this case, the controversy was on a non-denominational prayer that was composed by the Board of Education of Union Free School District No. 9, New Hyde Park, New York, which was to be read in all public schools without comment at the opening of each day.

The parents of some students of a public school filed a suit in the Court of Appeals of New York on the ground that the aforementioned prayer reading was contrary to their religious faith and doctrine. But the Court of Appeals of New York upheld the power of the Board of Education to use the prayer so long as the directive of the Board of Education did not compel any student to participate in the prayer against the consent of his or her parents. On appeal, the U.S. Supreme Court accepted the contention of the aggrieved parents.131

By a majority decision the U.S. Supreme Court held invalid the prayer directive given by the Board of Education on the ground that the establishment clause forbade the Government for composing prayers, which were to be read officially in public schools. Mr. Justice Black who spoke for the majority judgment in the present case concluded, “[T]he establishment clause of the First Amendment must at least mean that in this country it is no part of the business of Government to compose official prayers for any group of the American people to recite as a part of a religious programme carried on by Government.”132

Subsequent to the judicial decision on reciting prayers in public schools, cases were registered before the U.S. Supreme Court to clarify on the constitutional propriety of Bible reading in public schools. One such important case was the *School District of Abington Township, Pennsylvania v. Edward Lewis Schempp*.133

In this case, the Supreme Court reiterated the position taken in the prayer case134 and ruled that even Bible reading in the public schools was an infringement on the establishment clause. The Court pointed out that on the one hand the establishment clause prohibited the State to recognise or give official support to the tenants of any religion, and on the other hand, the free exercise clause guaranteed the right of every person to freely choose his own way according to his belief. The State should remain neutral.

To deal with cases of similar kind, the U.S. Supreme Court laid down a rule, known as the “neutrality test”. Interference by the State is to be tested by the purpose or the effect of the action of the State. It means that if the State’s action advanced or put a check on religion, it might be found unconstitutional. The Court said:

> [W]hat is the purpose and primary effect of the enactment? If ether is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution… [T]here must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.135

In *Abington School District v. Edward Lewis* case certain concessions granted by the State showed the religious character of the Bible reading regulation. The rule permitted the alternative use of any version of the Bible. Various versions like the King James, the Catholic Donay and the revised Standard Versions of the Bible as also the Jewish Holy Scriptures were used. The fact that an amendment was made in the rules permitting non-attendance also showed the religious character of the Bible reading. The Court remarked, “[T]he State’s recognition of the pervading religious character of the ceremony is evident from the Catholic Donay Version as well as the recent amendment permitting non-attendance.

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132 Ibid., at 425.
at the exercises.”

It was due to this religious character that special arrangements were made in schools by persons of various denominations. The Court pointed out that though “the Bible is worthy of study for its literary and historic qualities” and that “one’s education is not complete without a study of comparative religion or history of religion and its relationship to the advancement of civilization,” the instant case regarding the reading of verses from the Bible did not fulfil that purpose. The matters associated with the Bible readings challenged in this case were actually of the nature of religious exercises and as such violated the First Amendment.

The cases that we have studied so far enable us to conclude that the First Amendment to U.S. Constitution does not prohibit the State to give aid for the educational welfare of students even if such welfare measure helps denominational schools, provided that the aid is non-discriminatory. This had been settled when the cases on ‘text book aid’ and ‘transport facility’ to schoolchildren came before the U.S. Supreme Court. In the Zorach v. Clauson case the U.S. Supreme Court held that the ‘release time programme’ for children to attend religious instruction outside the school premises did not infringe upon the ‘establishment clause’, but the State only adjusted its programme to accommodate to respond to the need of the public good. The Court stressed, moreover, that the principle of separation between the Church and the State did not amount to hostility to religion.

Nevertheless, the United States Supreme Court held invalid to hold a non-denominational and simple prayer service in a public school even though the students were not compelled to attend it. Similarly, the Court decided with majority judgment that a simple Bible reading service even without comments violated the First Amendment on the ground that the Bible reading service was a religious service, and therefore, infringed upon the “establishment clause”. Finally the U.S. Supreme Court commented that the intension of the First Amendment to the Constitution was to keep the State neutral in matters religious so as to guarantee to people religious freedom.

1.1.6. Separation Not Absolute

It has often been considered whether the doctrine of wall of separation between the Church and the State has been fully observed in the American political system. The answer generally given by constitution experts is in the negative because the U.S. Government recognises many religious observances. Anson P. Stokes reminds us that appointment of Chaplains for the two houses of Congress, legislative bodies and for the army and navy are not compatible with ‘establishment clause’. The opening prayer of each day’s session in the U.S. Supreme Court, the U.S. President’s invocation for divine blessing while taking the oath of office, the U.S National Anthem, and the pledge of Allegiance to the Flag that reads, “One Nation under God indivisible, with

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136 Ibid., at 224.
137 Ibid., at 225.
144 The prayer ends with the words, “God save the United States and the Honorable Court”; quoted in Engel v. Vitale, 370 US 421, at 446 (1962). Mr. Justice Stewart referred to it in his dissent in this case.
145 In Engel v. Vitale, 370 US 421 (1962), Mr. Justice Stewart in his dissent pointed out how many U.S. Presidents at the time of taking oath of office invoked God’s blessing and protection. President John F. Kennedy, for instance, invoked divine blessing as follows: “The rights of man come not from the generosity of the state but from the hand of God…With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God’s work must be our own.” Quoted in ibid., at 449.
146 One stanza of “The Star-spangled Banner” which was made the National Anthem reads: “Blest with victory and peace, may the Heav’n rescued land, Praise the Pow’r that hath made and preserved us a nation! Then conquer we must, when our cause it is just, And this be our motto “In God is our Trust”.”
liberty and justice for all”,147 the U.S. coin inscription, “In God We Trust”,148 the Sunday holiday as Lord’s Day,149 and other State holidays on Christmas, Thanksgiving Day, New Year Day and Good Friday, etc., contain deep-seated Christian religious sentiments.

Moreover, among religious attitudes the U.S. judicial decisions seem to support values that are in consonant with the “established Christian standards of civilization”.150 Besides, it is known that the major religious sects in America maintain organisations to influence political decisions to achieve their ends. The “Anti-Saloon League” of the Baptists established in 1895, “The Federal Council of the Churches of Christ in America” founded in 1908 by the American Protestants, the “Friends Committee on National Legislation” organised in 1943 by the Quakers, the “National Catholic Welfare Conference” of the Roman Catholic Church, which is the most powerful among them all, and the “Central Conference of American Rabbis” of the American Jews are some of the political wings of the religious communities. Leo Pfeffer commented that American politicians acknowledge the influence these religious organisations have over American polity and pay serious thought to these religious forces.151

1.1.7. Conclusion: Separation for Co-existence

We sum up that in the Western political history the concept of secular State evolved out of many different historical situations and ideological compulsions. The concept arose, for the first time, in the Roman Empire with the arrival of Christianity. As an autonomous institution in matters spiritual, the Church claimed for itself freedom to care for the spiritual need of the citizens in a State where, under emperor cult, no distinction was ever made between citizen’s allegiance to the State from that of religion. Whereas, the Church differentiated the citizen’s loyalty on two levels, one to Caesar and the other to God. Consequently, the Church delineated the secular from the sacred order. The Church, therefore, called for an institutional separation between State and religion to ensure civil and religious liberty in the society. Pope Gelasius I in the 5th century developed it into a doctrine, which came to be known as the Gelasian Doctrine of Two Powers.

The Popes of the Middle Ages, however, reversed the Gelasian doctrine and held a doctrine of spiritual supremacy as defined, in the course of time, by Pope Boniface VIII. This doctrine once again legitimised hierocracy by subordinating the secular to the spiritual order as prevailed in the pre-Christian Roman Empire. Hence, in the medieval Christendom religion and State were fused together into a unitarian and monolithic society-state under the spiritual power, the Pope. This unholy alliance between the two orders that reigned supreme in the Middle Ages was nevertheless, scattered by the forces of confessional pluralism led loose by the Protestant Reformation.

The idea of a common secular political loyalty that surmounted denominational limits and prejudices became a historical necessity to stop confessional wars, and to assure civil and religious liberty to citizens, to provide social amity and economic growth in the European States. Hence, once again at the beginning of modern age, the separation of the spiritual and temporal orders, and their legitimate autonomy were re-asserted. This time it was propagated not by Church-personnel, but by liberal thinkers of various persuasions. Thus, the concept of secular State re-emerged carrying with it a broader value orientation with the objective of giving protection to fundamental human rights.

The political philosophy of secular State received constitutional definition for the time first in the First Amendment to the United States Constitution, which declared, “Congress shall make no law respecting the establishment of religion or prohibiting the free

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148 As quoted in Anson Phelps Stokes, op.cit., p. 560-561.
exercise thereof.\footnote{See First Amendment to the Constitution of the United States (1797).} As interpreted by the U.S. Supreme Court, the First Amendment prohibited the State to aid one religion, aid all religions or prefer one religion to another and, therefore, set a “wall of separation”\footnote{Arch R. Everson v. Board of Education of the Township of Ewing, 330 US 1 (1947), at 1-3.} between the State and religion. The United States model has been considered as the classic example of a secular State.\footnote{M.S. Bates, op.cit., p. 312.} It seems to us that even in the American model, the principle of separation as implied in the First Amendment is not absolute because the U.S. Government policy has integrated number of religious practices. In many instances, the Supreme Court has conceded that certain areas of co-operation between the State and religion in the matters of public welfare does not violate the establishment clause.\footnote{Everson v. Board of Education, 330 US1 (1947), Emmet Cochran v. Louisiana State Board of Education, 281 US 370 (1930)}

The U.S. Supreme Court, moreover, stressed that separation does not mean hostility to religion. Hence, the “wall of separation” between the State and religion amounts to an understanding of mutual non-interference in matters proper to each order and their co-existence in the society to provide a social order conditioned by the historical antecedents and the political need of that country. It is submitted that the manner of separation as given in the First Amendment to the U.S. Constitution is conditioned, certainly for good reasons, by the painful memory of many centuries of conflict that prevailed between the Church and the State in the Western Christendom. This was a defining factor that shaped the political history of Western civilization.
CHARTER TWO

The Indigenous Foundations for Indian Secularism

1.2. Introduction

The Constitution of India establishes a Secular State and has enjoined upon Indian democracy the task of creating an egalitarian social order where social, political, and economic justice will prevail and secular values will govern the relationship of all the citizens with the State. But the Constitution does not provide a ‘non-establishment clause’ as of the First amendment to the U. S. Constitution. The secular provisions of the Indian Constitution do not intend to create a rigid wall of separation between the State in India and religion.

Let us illustrate this positive approach of Indian secularism towards religion by way of referring to certain provisions of the Constitution. Clause (5) of article 16 excludes offices in connection with the affairs of any religious institution from the operation of clauses (1) and (2) of the same article.1 Article 27 implies that the State may tax for religious purposes provided the proceeds of which are benefited by all without discrimination.2 Clause (2) of article 28 permits the State to manage educational institutions established under an endowment or trust where religious instructions may be required to impart. Likewise, clause (3) of the article 28 provides the right to impart religious instructions or to conduct religious worship in educational institutions recognised by the State or receiving aid out of State funds on the condition that attendance to such activities is not compulsory.3

It is evident, as stressed by P.B. Gajendragadkar, one of the former Chief Justices of India, that the philosophy of Indian secularism is not hostile to religion but recognises the relevance and validity of religion in people’s life and, therefore, it “seeks to establish a rational synthesis between the legitimate functions of religion and the legitimate and expanding functions of the State.”4 The emphasis of the Indian form of secularism as enshrined in the Indian Constitution is not on the rejection of religion in people’s life, but rather on offering a significant basis founded on reason for national solidarity through an emphasis on mutual recognition and equal regard for all religions in the civil society.

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1 “(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.”
” (2) No citizen shall, on grounds only of religion, race, caste, sex, decent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment of office under the State.”
”(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.” Article 16 (1), (2) and (5) of the Constitution of India.

2 “No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination”. Article 27 of the Constitution of India.

3 “(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds”.
“(2) Nothing in this clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution”.
“(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instructions that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto”.
Article 28 (1), (2) and (3), of the Constitution of India.

National luminaries and scholars are of the opinion that this positive approach of secularism towards religion as given in the Constitution has evolved from the influence of Indian heritage and, therefore, it articulates the national ethos. Hence, in this chapter an attempt is made to investigate, through the long history of India, the indigenous values and institutions that are favourable for the kind of secular vision of the State as we have it in the Constitution of India.

1.2.1. The State in Ancient India

In his general survey and estimate of the ancient Indian polity and its achievements, Professor J.J. Anjaria concluded that ancient India had plural forms of polity. He observed:

Several types of states like republics, oligarchies, diarchies and monarchies were prevailing in India in ancient times, but eventually monarchy became the order of the day. This phenomenon was not peculiar to ancient India; it repeated itself in ancient Europe also where we find the republics in Greece and Italy being gradually supplanted by monarchies and empires.  

A.L. Basham and A.S. Altekar suggest that the State, during the Vedic period (cir. 1500-500 B.C.), was small in size, hardly more extensive than a modern district. The Vedic king was merely president of the Council of Elders. His powers were limited and he enjoyed no divine status. J.J. Anjaria points out that as centuries passed on, the State became territorially expanded and along with it the king’s powers also increased. For centuries, however, popular assemblies called samiti effectively controlled the royal powers. The establishment of the empire-state, which began with the Mauryan period (cir. 325-185 B.C.) and continued in the Gupta and post-Gupta period (cir.300-1200 A.D.), produced highly advanced organic concept of State and created bureaucratic political system centred on the king assisted by a Council of ministers.

All round welfare of the people was regarded as the chief aim of the State. Among them the promotion of dharma was given foremost importance. In the legal literature dharma means sacred law or the divinely ordained norm of conduct varying according to caste and age (varnasramadharma). As promoter of dharma, the king was called dharmaraja. Promotion of dharma included to foster values of piety, morality, to protect religion and to render material assistance to establish religious institutions irrespective of sects and denominations. It also meant to build hospitals and charitable institutions. In his research work, The Concept of Secularism in Indian Constitution, Professor R.L. Chaudhari points out that in promoting dharma the ancient Indian polity was not only tolerant towards all religions but also impartially patronised all faiths as evidenced through the long political history of ancient India. This political legacy provided one of the bases for the growth of modern secular State in India.

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7 A.L. Basham, op.cit., p. xxi.
8 J.J. Anjaria, op.cit., p. 231.
9 A.L. Basham, op.cit., pp. 88-89;
12 Ibid., pp. 48-50.
13 The royal title “dharmaraja” primarily belonged to Yama, the god of death and the departed. Since the time of Emperor Asoka, it was analogically ascribed to good kings on the ground that both Yama and good kings uphold dharma (the sacred law) by punishing the wicked and rewarding the just. For detail see A.L. Basham, op.cit., pp. 144, 238, 313.
14 J.J. Anjaria, op.cit., pp. 29-30;
The promotion of *artha* (economic welfare) was procured by encouraging trade, industry and agriculture and by developing national resources etc. The State was to promote *kama* (individual and social enjoyment) by ensuring peace and order so that each individual in particular and society as a whole could enjoy life unthreatened. The promotion of *kama* also included the State’s support to encourage the growth of fine arts, sculpture and architecture in order to develop aesthetic culture. The State in ancient India was thus to promote values and institutions for the all round welfare of the people.\(^\text{16}\) In their study about the scope of the State’s activity, Professors Beni Prasad and R.C. Majumdar had made the following assessment:

There was never an a priori limit set to the activity of the State. The State was integrated into the vast institutional apparatus for the realization of the spiritual life, and could not, therefore, be restricted to merely police functions, or the administration of justice. Hindu government could not be merely negative. It had to adopt a positive attitude towards all the main concerns of life - religion, ethics, family, economics, culture, etc. We find accordingly that the Hindu State touched the whole of life.

This is the reason why the duty of the State is frequently summed up as protection. The State protects the religion, the morality, the customs and the tradition, which have been derived from the gods or evolved by society. It is totalitarian in the sense that it embraces the whole of life. But it is not totalitarian in the sense of dominating all other associations and enacting statutes for wholesale regimentation. The State holds the ring for the interplay of social forces, intellectual influences, and economic enterprises and, above all, the spiritual tradition.\(^\text{17}\)

It is acknowledged that well organised Mauryan and Gupta empires discharged most of these functions. Prof. J.J. Anjaria comments that the State was able to exercise such vast powers because the concept of individual liberty in the body politic was not well developed.\(^\text{18}\) Professor A. L. Basham, on the other hand, opined that even though the State had vast areas of jurisdiction, it did not directly interfere with individual liberty because the function of the State was only to harmonise and co-ordinate diverse interests of the people in the society in consultation with guilds such as the *Panchayats*, *Brahmana* and *Sravana samiti* (assemblies) which enjoyed people's confidence.\(^\text{19}\)

### 1.2.1.1. The State and Theocracy

Until the modern age, almost all nations of the world had theocratic States. Under theocracy the spiritual and temporal powers are vested either in one person or in an institution. According to this conception, either the head of the religion becomes the head of the State as was the case with the early Caliphs in Islamic political history,\(^\text{20}\) or the head of the State wields spiritual authority as was the custom in the ancient Egyptian and Greco-Roman emperor cult,\(^\text{21}\) and also in Anglicanism and the British Monarchy since Henry VIII,\(^\text{22}\) or even the head of the State could be merely be an agent of a particular religion as practiced in the medieval Western Christendom.

The ancient Indian polity, on the other hand, maintained a distinction between the authority of the priest and the king. The priest stood for spiritual authority only, just as the king held secular authority of the State. A.S. Altekar acknowledged that the role of the royal chaplain (*purohita*) and the Brahmins (the priestly caste) in general were greatest during the *Brahminic* period when there was widespread faith in the Vedic rituals. The priestly class tried to extend its power over the king and through him over the State.


\(^\text{17}\) R. C. Majumdar, *History, op.cit.*, vol. 2 p. 308.


\(^\text{19}\) A.L. Basham, *op.cit.*, pp. 88,96.


\(^\text{21}\) See supra Section 1.2.1, “State Cult in the Roman Empire”.

This is evident from a number of passages from literature coming from the Vedic period eulogizing the superiority of the priests and their importance for the welfare of the State and king. Scholars are of the opinion that such priestly claims were generally exaggerations and wishes rather than practiced really. We also come across contrary views claiming the superiority of the king in matters of secular realm. Brahminic literature points out, for instance, that the king at his sweet will can lord over the Brahmins, and that the king can expel the Brahmins from office, and that the ruling class (Kshatriya) is the one who enjoys the highest status in the society.

We would conclude that in ancient India the institution of priesthood was treated with honour and reverential decorum. The spiritual function of the priest was treated with respect as an integral part of the society. However, the king was not an instrument in the hands of the priests. There was a definite distinction between the sacerdotal function of the priest and imperial function of the king. This was well sustained by social order that was enforced by none other than the caste system. By the fourth century B.C., as the impact of Vedic cult and ritualism were considerably reduced or fell into disgrace owing to the influence of Upanishads, Jain and Buddhist spiritualities, priestly influence over political order also declined accordingly.

The available evidence indicates that there was neither the practice of theocracy nor instances of usurpation of political power by the priestly class in the political history of ancient India. U.N. Ghoshal suggested that the struggle between the regnum and sacerdotium which prevailed over ancient and medieval European political history was rather absent in India. The priestly class in India, moreover, never developed into a well-organised hierarchical institution so as to stake its claim to control kings and emperors.

1.2.1.2. The State and Religious Liberty

From ancient time onwards India is known as a land of many religions and philosophies, languages and cultures, races and castes. All who came from outside to settle down in India were allowed to develop their culture, religion and philosophy, and thus to maintained their personality. It is generally claimed that the reason for this unity in diversity in the Indian life and culture is due to the remarkable spirit of tolerance rooted in the Vedantic insight that truth is one but it is perceived differently by different learned persons (Ekam Sat vipra bahudha vadanti). The recognition that truth cannot be comprehended entirely by human intelligence, and that only its different facets are perceived and described even by seers, inevitably leads to a spirit of intellectual humility, pluralism and a sense of tolerance.

Commenting on the spirit of tolerance that has permeated the Hindu thought, Max Weber had this to say:

It is an undoubted fact in India, religious and political thinkers were able to enjoy perfect, nearly absolute freedom for a long period. The freedom of thought in ancient India was so considerable as to find no parallel in the West before the most recent age.

From the metaphysical axiom that truth is many-sided and that different views contain different aspects of truth, which no one could fully comprehend, Hinduism recognises many ways of spiritual liberation. Hinduism, therefore, does not claim the monopoly of spiritual wisdom nor does it require being frightened of other religious

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24 Ibid., pp. 194-195.
25 Ibid., p. 54.
28 Ibid., pp. 32-34.
29 Rg Veda I. 164.46. As quoted in Sarla Jhingran, op.cit., p.163.
30 Quoted in Donald E. Smith, op.cit., pp. 61-62.
traditions. The entire history of Hinduism is, moreover, a history of constructive assimilation of different cultures, faiths and people. Commenting on the spirit of Hindu universalism Monier Williams wrote:

It must be borne in mind that Hinduism is far more than a mere form of theism resting on Brahmanism. It presents for our investigation a complex categories of creeds and doctrines which in its gradual accumulation may be compared to the gathering together to the mighty volume of the Ganges, swollen by a continual influx of tributary rivers and rivulets, spreading itself over an ever-increasing area of country, and finally resolving itself into an intricate Delta of tortuous streams and jungly marshes...The Hindu religion is a reflection of the composite character of the Hindus, who are not one people but many. It is based on the idea of universal receptivity. It has ever aimed at accommodating itself to circumstances, and has carried on the process of adaptation more then three thousands years. It has first borne with and then, so to speak, swallowed, digested and assimilated something from all creeds.31

So much is the breath and comprehensive nature of Hindu religion that it is not so easy to define it in the narrow confines of a definition that is generally ascribed to a particular religion. The Supreme Court of India has pointed out this aspect of Hindu worldview when it had to deal with the nature of Hindu religion in *Shastri Yagnapurushdasji v. Muldas Bhunardas Vaishya*,32 Chief Justice Dr. P.B. Gajendragadkar, who delivered the majority opinion of the Court in the instant case, later in his work, *Secularism and the Constitution of India*, explained his conception of Hinduism:

Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be subscribed as a way of life and nothing more.33

The Hindu catholicity permits the believer to choose the God of one's choice from among the numerous gods and pursue the path of salvation which satisfies one's spiritual longing.34

The political implication of the above-mentioned Hindu theology is that the State in ancient India never sought to impose a particular conception of God as the deity of the State or a particular creed as imperial creed upon the people. Various schools of thought holding doctrines of theism, atheism, agnosticism and materialism as well as various Hindu religious sects along with Jainism, Buddhism, Judaism, Christianity, Zoroastrianism and Islam were not only allowed to settle down, but also were permitted to propagate their tenets, build their places of worship and establish their way of life.

Dr. Donald E. Smith who made a seminal research on the secular nature of modern India remarked that Muslims, for instance, lived peacefully for three hundred years before Islam came as a military force in the eleventh century A.D.35 The struggle for religious freedom that continued in Europe and America for many centuries had no trace in the political history of ancient India. Religious liberty, which was an important aspect of the ancient Indian polity, indicates an indigenous political value foundational to the modern concept of secular State.

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32 AIR 1966 SC 119. In this case the Supreme Court of India was appealed to consider whether the provisions of the *Bombay Hindu Places of Public Worship Entry Authorisation Act, 1956* (Act 31 of 1956) applied to the temple of the Swaminarayan sect. The sect under consideration claimed that it did not form part of the Hindu public and, therefore, as such its temples did not come under the category of Hindu temple in so far as the Hindu temple category is referred to in the above said Act. In giving verdict to the instant case (AIR 1966 SC 1119), the Supreme Court of India studied at length the broad features of Hindu religion as described by scholars from India and abroad.
33 P.B. Gajendragadkar, *Secularism and the Constitution of India*, op.cit., p. 34.
34 Ibid., pp. 39-41.
35 Donald E. Smith, *op.cit.*., p. 27.
1.2.2. The Indo-Islamic Political Pragmatism in Medieval India

The society founded by the Prophet Mohammed in Medina in the seventh century A.D., was a commonwealth of religio-political community in which no separation existed between religious obligation and civil duty. While commenting on Islamic polity Guenter Lewy, who did an extensive study on the influence of religion to usher in revolutionary changes in the society, states that God and his revealed word were the supreme authority in the early Islamic society. This sort of political order is called either “theocracy or nomocracy.”

The Prophet Mohammed represented the unity of spiritual (din) and temporal (dawla) authority by reason of his mission as the Apostle of God. Consequently, he was theologically legitimised to be the vice-regent of God on earth. The primary purpose of the State was to ensure peace in the society and to protect the new faith, Islam. After the death of the Prophet, the Caliphs carried on theocracy in Islamic polity. However, from the ninth century onwards, the Ulama reduced the spiritual authority of the Caliph to minimum and by thirteenth century, the Sultans enjoyed complete control over their respective States in religious and secular affairs. This left the Caliph as a mere figurehead for ceremonial decorum.

In this prevailing Islamic political climate, the Muslims were not particular to re-establish the classic Islamic theocracy. They were satisfied to see that the government formally recognised the sharia and allowed them to obey the Holy Law. Islamic scholars like al-Ghazali, a scholar of great repute in the twelfth century, acknowledged the incapacity of the Caliphate to reinforce theocracy and, therefore, advocated the position that the State was based on secular or military power. Looking at the changes that were taking place in the political administrative set-up of the Islamic States al-Ghazali wrote:

The concessions made by us are not spontaneous, but necessity makes lawful what is forbidden. We know that it is not allowed to feed on a dead animal; still, it would be worse to die of hunger. Of those who contend that the Caliph is dead forever and irreplaceable, we would like to ask: what is to be preferred, anarchy and the stoppage of social life for the lack of properly constituted authority, or acknowledgement of the existing order, whatever it be? Of these two alternatives, the jurist cannot but choose the latter.

This historical background to Islamic polity points out that during the Indo-Islamic rule - the Delhi Sultanate (1211-1504 A.D.) and the Mughal Empire (1526-1757A.D.) - the classic Islamic theocracy was obsolete. Hence, the medieval Indo-Islamic scholars proposed a modified version of Islamic rule in India, according to which they accorded the divine ordination to the Delhi Sultanate and conferred divinely vouchsafed authority or a divine mandate. In the later Islamic history, the sultans are the military leaders who during the vast territorial expansion of Islam appropriated to themselves independent political and also often religious authority of the Islamic States. See Vincent J. Cornell, “Sultan” in Ibid., pp. 135-136.

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37 Ibid., p. 47.
38 The Arabic word ‘khalifah’, written also as ‘Caliph’ in English (vicegerent, deputy, or successor) is one of the titles - others include ‘imam’ (leader, particularly of prayer) and ‘amir al-muminin’ (commander of the faithful) - given to those who succeeded the Prophet Muhammad as real or nominal rulers of the Islamic world. The Office of the Caliph was validated by a covenant with the Islamic community on the ground that he would protect the ‘sharia’ (the Holy Law) and abide by it. If he violated the terms of the covenant, the people were absolved of their allegiance and were free to elect another Caliph. See Glenn E. Perry, “Caliph” in The Oxford Encyclopedia of the Modern Islamic World, ed., John L. Esposito (New York, Oxford University Press, 1995), vol. 1., pp. 239-243.
39 The Arabic word “ulama” is the plural of ‘alim’, literally means “men of knowledge”. The ulama are the doctors of Islamic theology and law. By 9th century they claimed an exclusive right to interpret the Islamic tradition. See Ifitkhar Zaman, “Sunni ulama” in Ibid., vol.4, pp. 258-260.
40 The Arabic word sultan denotes an Islamic ruler. In the Qur’an it refers to
on it the right of Caliphate over its own dominion.44

1.2.2.1. The Delhi Sultanate

The Delhi Sultanate did not have a legal link with any Caliphate, the supreme religio-political head of the classic Islamic society.45 Dr. Abid S. Husain, a well known Islamic scholar in India, asserted that in the Delhi Sultanate to follow or not to follow the *sharia* depended on the sweet will of the Sultan both in his personal life and in the administration of the State.46 In matters of economic policy and in personal law, *shariat* was not strictly imposed on non-Muslims.

Dr. V. P. Varma, a scholar of Medieval Islamic rule in India, has pointed out that the Delhi Sultanate was not an Islamic State because the Sultans only substituted non-Muslim rulers but did not fundamentally change the traditional functions of the Hindu State and the customs of the land.47 The only change was that the non-Muslims under the Sultanate had to pay the required taxes in recognition of the sultan’s suzerainty, on account of which the non-Muslims obtained the rights to protection, and guarantees for the maintenance of their religious rights and rituals, the observations of their social customs and personal law.48

Commenting on the religious tolerance of the Delhi Sultanate, Ziauddin Barani, an Islamic fundamentalist and the most important historian of Delhi Sultanate, complained:

The Muslim king will not be able to establish the honour of theism (*tauhid*) and the supremacy of Islam unless he strives with all his courage to overthrow infidelity and to strengthen its leaders (imams) who in India are the Brahmans… on the other hand if the Muslim king… is merely content to take the poll-tax (*jizya*) and tribute (*kharaj*) from the Hindu and preserves both infidels and infidelity… what difference will there be in this respect between the kings of Islam and the *Rais* [king] of the infidels? For the *Rais* of the infidels also exact the poll-tax (*jizya*) and the tribute (*kharaj*) from the Hindu… in fact, they collect a hundred times more taxes.49

Ziauuddin Barni’s complaint indicates that the government under the Delhi Sultanate was not much different from that of the Hindu States. Dr. Abid S. Husain has also asserted that except for a few changes in civil and criminal laws, the Sultans generally followed the policy of religious freedom as practiced in the Hindu States.50

1.2.2.2. The Mughal Empire

The Mughal political system was known for its autocratic absolutism and centralism, which were sustained by the concept of the divine right of the emperor.51 In the administration of the State, however, the Mughal emperors followed to some extent the separation of the State from religion in the sense that the government offices were not the monopoly of the Muslims but, on the other hand, the Hindus formed a significant part of the State administration.52 Moreover, the emperors until the time of Aurangzeb underplayed the political role of the Muslim clergy. Akbar, for instance, by relaying on the support of Hindu Rajputs (a Hindu warrior class) reduced the Muslim clerical militancy in the affairs of the State.53 While describing the secular nature of the Mughal Empire Dr. V. P. Varma asserted:

The Mughal state in India was not the sacerdotal orthodox Islamic state and during the Mughal period the real authority resided in the omnipotent will of the rulers rather than in the texts and enumerations of the shariat, although theoretically, the rulers were expected to promulgate the injunctions,

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47 V. P. Varma, *op.cit.*, pp. 221-225.
51 V. P. Varma, *op.cit.*, p. 239.
52 A.S. Husain, *op.cit.*, p. 89.
53 de Bary, *op.cit.*, vol. 1, p. 437.
maxims and precepts of the shariat.\textsuperscript{54}

The religious policy of the Mughal emperors varied from the
tolerance of Akbar to the fanaticism of Aurangzeb and Shah Jahan.\textsuperscript{55}
Among them, Akbar was the most liberal minded who intended to
establish a secular State in the sense of a non-communal state. His
eclectic creed, \textit{Din-i-Ilahi} (Divine Faith)\textsuperscript{56} and a number of his
letters written to Shah Abbas Safavi of Persia testify that he was
sincere in his effort. An extract of his letter written to Shah Abbas
Safavi reads:

\begin{quote}
The various religious communities are Divine treasures
entrusted to us by God. We must love them as such. It should
be our firm faith that every religion is blessed by Him, and
our earnest endeavour to enjoy the bliss of the ever-green
garden of universal toleration. The eternal king showers his
favours on all men without distinction. Kings who are
shadows of God should never give up this principle.\textsuperscript{57}
\end{quote}

In pursuance of his non-communal policy, Akbar followed a
policy of non-discrimination in the administration of the State, as
caste and creed did not come in the way of government
appointments. In the matters of religion, he pursued a policy to
support all sects. In education Akbar would be the first ruler to
establish public schools with common non-sectarian syllabus open
to all that were designed to create an intellectually and emotionally
bonding community atmosphere for national integration and
communal harmony.\textsuperscript{58} Akbar’s State policy clearly recognised
respect for individual liberty and equality of all citizens before the
law. These are, in fact, the foundational principles for the creation
of the modern secular State.

\begin{enumerate}
\item[54] V. P. Varma, \textit{op. cit.}, p. 226.
\item[55] For a detailed documentation of the religious policy of the Mughal Empire see
\item[56] For an analysis of the pluralistic attitude of \textit{Din-i-Ilahi} towards religions see,
\textit{ibid.}, pp. 138-139
\item[57] An extract of Emperor Akbar’s letter written to Shah Abbas Safavi of Persia on
religious tolerance. As quoted in Abid S. Husain, \textit{op. cit.}, p. 86
\item[58] \textit{Ibid.}, p. 89.
\end{enumerate}

\section*{1.2.3. The British Rule in India}

The British paramountcy in India was established through the English
East India Company. This was created according to the Charter
given by Queen Elizabeth on December 31, 1600. The Charter
authorised the Company for a monopoly of trade with the East
under the managerial authority of a Governor. The Company was
also vested with power to make reasonable laws, which were not
counter to English laws and customs, and the power to punish
those who violated them.\textsuperscript{61}

By the Charter of 1726, the Government-in-Council of the three

\begin{enumerate}
\item[59] Sri Ram Sharma, \textit{The Religious Policy of the Mughal Emperors} (Calcutta,
Oxford University Press, 1940), p. 60.
\item[60] Humayun Kabir, \textit{The Indian Heritage} (Bombay, Asia Publishing House, 1955),
p.21.
\item[61] A. B. Keith, \textit{A Constitutional History of India 1600-1935}, reprint (Allahabad,
Central Book Dept., 1961), pp. 1, and 4-5.
\end{enumerate}
Presidencies of Bengal, Madras and Bombay were given similar powers to make civil and criminal laws that were not repugnant to English law. They were not to have the force of law unless approved by the Court of Directors of the English East India Company. The battle of Buxer in 1765, and the prevailing political climate in India led the East India Company to claim for territorial sovereignty which created, in the course of time, socio-economic, political and religious discontent precipitating into the great revolt of 1857-58. Soon after the revolt, by the Government of India Act, 1858, the Government of East India Company was transferred to the British Crown who acted through a Secretary of State for India. The Secretary of State of India was answerable to the British Parliament in the matters of moral and martial progress of India.

The Crown directly appointed the Governor General of India and Governors of the three Presidencies. It re-assured the policy of religious freedom and non-annexation of Indian States, provided means of representation of Indian views and, at the same time, reorganised the army and police forces to make further uprising impossible. The British rule ended on 15th August 1947 by the Indian Independence Act, 1947, which provided absolute political freedom for the establishment of two independent Dominions of India and Pakistan, each with full authority to make its own Constitution from the appointed day, August 15, 1947.

1.2.3.1. The Religious Policy of the British in India

The British rulers in India did not follow a uniform policy on religion. Dr. Donald E. Smith, in his study on the religious policy of the British Raj, has delineated three complex types of British interest in India. They are the British as colonial trader, the British as Indian ruler and the British as professing Christianity. Accordingly, their religious policy also varied from neutrality to interference.

The religious policy of the British trader government in the seventeenth and eighteenth centuries was one of non-interference in the religious matters of the country in order to secure its commercial interest; and, as a result, to maintain the good will of loyal subjects in India. This is seen clearly in the order issued by the East India Company in Bombay in 1662. The order stated, “There shall be no compulsory conversion, no interference with native habits and no cow killing in Hindu quarters.”

Missionaries were required to obtain a license from the Board of Directors of the East India Company, but the Company was not enthusiastic to grant it. A noted missionary, William Cary was, for instance, denied a license to carry out mission work in the British India. Cary who is known in the Protestant circles as the Father of modern missions could find shelter at Serampore in Bengal, which was a Danish territory at that time.

The Board of Directors of the East India Company permitted merely few chaplains to look after the spiritual requirements of the Company’s European employees. It has been pointed out that one chaplain was sent to India between 1760 and 1800. Already in 1793 attempts were made in British Parliament under the leadership of William Wilberforce to grant legal approval for direct missionary work in India for “the religious and moral improvement” of Indians. However, the Parliament rejected the request on Company’s representation. On the contrary, the British Parliament claimed that the Hindus had “as good a system of faith and morals as most people and it would be madness to attempt their conversion.”

The religious neutrality of the British East India Company was neither based on the principle of religious tolerance nor on the principle of separation between the Church and the State. On the contrary, as A.C. Lyall, a British official remarked, it was a policy

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62 Ibid., p. 18.
64 A.B. Keith, op.cit., 165, 170, 267-270.
65 Ibid., pp. 166 -167, 188 -190.
67 Donald E. Smith, op.cit., p. 65.
69 Cf. Donald E. Smith, op.cit., p. 66.
70 Ibid., p. 195.
71 Ibid., p. 68.
of expediency for commercial interest. He opined that toleration, meaning complete non-interference with the religions of the natives, was of such plain and profitable expediency with the East India Company in its earlier days, that not to have practiced it would have been outright insanity in an association whose object was to do business with Indians. The business pretence of the Company’s neutrality was betrayed by its own policy of debarring Indian Christians from appointment to various judicial and military posts in order to impress on the Hindus and Muslims that the Company did not favour Christians.73

The reception of missionaries by the Company officials in India differed according to the interest shown by the Presidencies and Governors. In Bengal, the Company officials were not very happy to receive them. In Madras, on the other hand, the Company wanted missionaries not only for spiritual purpose but much more to acquaint the British officials with Indian languages and customs of the people.74 Lord William Bentinck, during his tenure as the Governor of Madras, encouraged missionaries for evangelical work. However, the Vellore Mutiny in 1806, which was attributed as a reaction to conversion work, put an end to direct encouragement to conversion work.75 On the other hand, Lord Minto, when he assumed the office of the Governor General in 1807, knew well that any official affiliation to Christianity would endanger the British interest in India and, therefore, resorted to a strict policy of control over missionaries.76

In the meantime, pressure was mounting in England to lend free entrance to missionaries in India for propagation of Christianity. Hence, the Charter Act of 1813 included the legal right of missionaries to enter British India under a new system of licensing. According to this Act the Company’s Board of Control was made the final authority in granting permits to missionaries proceeding to India. The Act also made provisions for an Anglican Bishop of Calcutta [Kolkata] and thee Archdeacons.77 Certainly, neutrality was not perfect!

As ruler of India, the British government respected the rights, privileges and immunities enjoyed by religious institutions under former Hindu and Muslim rulers.78 The British government also patronized and administered the Hindu and Muslim religious institutions. Donald E. Smith records that this practice began as early as 1796 in Madras Presidency at the time when the British officials took responsibility to maintain and administer the Hindu temples by allotting required financial assistance and assigning proper functionaries to perform religious duties.79

Regulations to look after the temples and mosques and other pious and beneficial institutions were passed in Bengal and Madras in 1810 and 1817 respectively. These measures empowered the Government to ensure that endowments were used according to the interest and will of the donor. The British officials carefully observed their roles in Hindu and Muslim festivals and paraded troops and artillery to make such occasions solemn because State participation was customary among Indian rulers.80

Indians appreciated these actions and attitudes of the British. But the Christian fundamentalists both in India and England reacted adversely either due to their ignorance of Indian customs or as a matter of dogmatic intolerance towards other religions. In response to this mounting pressure, the Court of Directors of the East India Company issued a dispatch in 1833 asking the British officials in India to withdraw their interference with native religions.81

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72 Ibid.
73 Cf. Ibid., p. 69.
74 Ibid., p. 195.
75 Ibid., p. 195.
76 Ibid., p. 196.
77 A.B. Keith, op.cit., p. 160.
78 For example, the Muslim rulers of Mysore, Hyder Ali (1769-1782) and Tipu Sultan (1782-1799) saw to it that the religious institutions were maintained well. Similarly, Muhammed Ali Walajah (1752-1794), the Nawab of Arcot in the Karnatic region saw to it that the Hindu religious institutions were looked after well in his territory. In the Hindu Kingdom of Mysore under the reign of Wodyar Family, religious institutions of various sects and denominations were cared for. See Donald E. Smith, op.cit., pp. 72-74.
79 Donald E. Smith, op.cit., p. 74.
80 Ibid., p. 75.
81 Ibid., p. 76.
By 1841, the British officials stopped participating in the religious activities of Hindus and Muslims but guaranteed to the continuance of grants and allowances allotted for religious and charitable purposes by the former Hindu and Muslim rulers. Indians reproached the British that the withdrawal violated one of the immemorial duties of rulers. The principle of neutrality and equality before the law, which the British intended to maintain as a matter of State policy, was asserted in the Royal proclamation of 1858, when Queen Victoria assumed the government of the country in her hands. The proclamation affirmed inter alia:

We hold ourselves bound to the natives of our Indian territories by the same obligations of the duty which binds us to all our other subjects.

We declare it to be our royal will and pleasure that none be any-wise favoured, none molested or disquieted by reason of their religious faith or observances, but all shall alike enjoy the equal and impartial protection of the law, and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship for any of our subjects on pain of our highest displeasure.

By 1863 the British government handed over the temple properties to government appointed trustees or committees. Accordingly, the imperial legislature representing the Indian opinion passed the Charitable and Religious Trustees Act in 1920.

The third role of the British in India was that of a Christian government. The East India Company from 1644 onwards sent few Anglican chaplains to minister to the religious needs of the British merchants and soldiers. The Charter of 1698 had included provision for the maintenance of ministers and schoolmasters in the Company’s factories but no missionary intent was attached. In 1813, with the renewal of the Company’s Charter, provision was made for an Anglican bishop of Calcutta and three Archdeacons. The see of the Anglican bishop of Calcutta included India, Ceylon and Australia. In 1833 the British Parliament created the Anglican dioceses of Madras and Bombay and designated the bishop of Calcutta metropolitan of the entire Indian territory.

During this period the building of Anglican churches increased. The Presidencies governments met half of the cost of construction and the churches remained the property of the government. The British government also appointed and financed chaplains of other denominations to minister to the British and Anglo-Indian civilians of those persuasions. The Presbyterian ministers were appointed in 1813. In 1840, first grant was made to build a Roman Catholic Church in Madras Presidency and thereafter the Roman Catholic bishops and missionaries began to receive allowances. By the first half of the twentieth century the British government had to limit considerably the cost maintaining ecclesiastical services in India. The government’s connection with the ecclesiastical affairs in India came in for sharp criticism on the ground that in the course of time the State, Christian religion and missionary society were apparently linked up.

Though the British government did not directly approve of the missionary efforts of the clergymen appointed by the State, yet from the first half of the nineteenth century onwards many of them were directly involved in evangelical work. For example, bishop Heber, the second bishop of the Anglican see of Calcutta put the evangelisation of India in the forefront of the Church’s duty. Eminent persons from many religions voiced reactions to this abnormal position of the British government. Raja Ram Mohan Roy, the Father of Indian Renaissance, also voiced his objection. In a letter that he wrote to the British government in the year 1821 Raja Ram Mohan Roy registered his protest to the manner of missionary-behaviour under European protection, which were

82 Ibid., p. 76.
84 Donald E. Smith, op.cit., p. 78.
85 Ibid., p. 79.
86 A.B. Keith, A Constitutional History of India, op.cit., p. 414.
87 Donald E. Smith, op.cit., p. 79.
During the last twenty years, a body of Englishmen who are called missionaries, have been publicly endeavouring, in several ways, to convert Hindoos and Mussulmans of this country into Christianity. The first way is that of publishing and distributing among the natives various books... reviling both religions, and abusing and ridiculing the gods and saints of the former. The second way is that of standing in front of the doors of the natives or in the public roads to preach the excellency of their own religion and the debasedness of that of others. The third way is that if any natives of low origin became Christians from the desire of gain or from any other motives, these gentlemen employ and maintain them as a necessary encouragement to others to follow their example.

It is true that the apostles of Jesus Christ used to preach the superiority of the Christian religion to the natives of different countries. But must recollect that they were not of the rulers of those countries where they preached... In Bengal, where the English are the sole rulers, and where the mere name of Englishman is sufficient to frighten people, an encroachment upon the rights of her poor timid and humble inhabitants and upon their religion, cannot be viewed in the eyes of God or the public as a justifiable act. For wise and good men always feel disinclined to hurt those that are of much less strength than themselves, and if such weak creatures be dependent on them and subject to their authority, they can never attempt, even in thought, to mortify their feeling.89

Similarly, bishop Henry Whitehead, one of the Anglican bishops in India, who observed the problem involved in the appointment of the bishop by the State, wrote in 1924:

It is true that they (bishops) are appointed and paid by the state to minister to the Christian servants of the government, but at the same time, by virtue of their position as bishops they are the heads of the church of which the government servants form only a small minority; and as every Christian church, so far as it is faithful to its commission, is bound to be a missionary body, the bishops cannot do their duty as bishops of the church of Christ unless they take an active interest and an active part in the missionary work of the dioceses over which they rule.90

The need to de-link the Anglican Church from the State establishment was also voiced by Church leaders in order to have the freedom for mission work. Accordingly, the Indian Church Act, 1927, permitted the legal separation of the Church of England in India from the English Church. This Act was supplemented by the Indian Church measure (1927) passed by the British Parliament, which formally effected the separation.91

Subsequently, all Christian denominations in India were put on an equal footing but the financial assistance given by the government continued. With the attainment of Independence, the Indian Ecclesiastical Establishment of the British government was abolished on March 31, 1948, and the Churches maintained by the government were handed over to the proper denominational authorities.92 These measures of the British government were the direct response to the political ideology of secular nationalism that was definitely emerging during the national struggle for India’s independence (swaraj) from the British rule.

1.2.4. The Emergence of Indian Nationalism

The emergence of nationalism in India was a very slow process. The alien rule was essentially responsible for the awakening of nationalism. Therefore, nationalist movements were a challenge to and revolt against the British rule.93 In the first half of the nineteenth century there were number of revolts. They were, however, local in character, meant to re-establish the supremacy of the local rulers against the British Raj and they had little nationalist significance. After the mutiny and the revolt of 1857, Indians lost their trust in

90 As quoted in Donald E. Smith, op.cit., p. 81.
92 Donald E. Smith, op.cit., p. 82.
the providential rule of the British, and they realised the need to start a national struggle for independence. As a result, the growth of nationalist movements increased. The different trends that emerged under Indian National movement could be grouped as religious, secular and communal nationalism.

1.2.4.1. Religious Nationalism

The beginning of religious nationalism could be traced to the Wahhabi movement that began under the influence of Shaik Muhammed-ibn-Abdul Wahhab of Najd. In the first half of the nineteenth century, the Wahhabi movement was, probably, the only political revolt which had a certain broader national base.

In the second half of the nineteenth century, the Muslims had the Deoband movement centred on the Deoband Seminary founded by Maulana Muhammed-Qasim. According to Dr. Abid S. Husain, the Deoband movement propagated Shah Wali Ullah’s ideas of social revolution, religious reform and political struggle against the British Raj and westernisation. Similarly, when the awakening of nationalism arose among the Hindus, it was based on some religious ideal. In Maharashtra, it was the Hindu rule of Shivaji became the motivating political force for the freedom struggle. As these movements had their inspiration from religion, though not communal in objective, Dr. Abid S. Husain categorises these national movements as religious nationalism.

1.2.4.2. Secular Nationalism

In the second half of the nineteenth century, we find another kind of nationalism arising “purely as a political movement.” People who had Western liberal education steered it in the emerging Indian political scenario. The Indian liberals who were inspired by the Western political liberalism, held in their political ideology an abiding faith in the values of human dignity, equality and liberty. They followed a policy of social tolerance, dissociation of religion from politics, secular approach to social and political issues and believed in the people’s capacity to progress. K.M. Panikkar was of the opinion that John Stuart Mill’s tracts on liberty and representative government and Edmund Burke’s principles of prescriptive constitution, parliamentary representation and political parties provided the basics needed for the liberal political ideology in India.

The Indian liberals, therefore, saw the possibility of a national movement for political freedom and the establishment of a democratic State from a secular and humanistic point of view. It is this national movement that we call “secular nationalism.” Its foundational principles were liberal and secular in value orientation as these are based on reason and not attached to religious legitimation. Dr. M.M. Thomas points out that the Indian liberals who were the founding members of the Indian National Congress (INC), projected secular nationalism as an expression of “the spirit of fraternity” and treated patriotism as “social feeling” of all people who lived in the territory of the Indian subcontinent.

Secular nationalists believed that such a national solidarity would help Indians to transcend the isolation resulting from the joint-family system and the caste system as well as the divisive tendencies.

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95 Ibid., pp. 663-665.
96 Ibid., pp. 883-900.
98 A.K. Saran, op.cit., p.3.
99 R.C. Majumdar, History, vol. 10, p. 44.
100 Abid S. Husain, The destiny of Indian Muslims, op.cit., p. 44.
101 Ibid., p. 44.
103 K.M. Panikkar, Foundations of New India, op.cit., pp.75-86.
104 A.S. Husain, The destiny of Indian Muslims, op.cit., p. 44.
106 Ibid.
arising from regional, linguistic and religious sentiments. They believed that a nation could survive only when all sections of the people shared, as Jawaharlal Nehru asserted, “a sense of common national consciousness, of belonging together and of together facing the rest of mankind” irrespective of their regional, ethnic, linguistic and religious considerations.

With this in view, the secular nationalists advocated the territorial concept of the nation-state in that all the inhabitants of India as a people were included on the basis of dignity of all people as human nature demands. Therefore, equality of status and opportunity irrespective of religious or other identity became central values in their concept of nationalism. Political stalwarts of this sort of nationalism formed the Servants of Indian Society as a secular fraternity to foster and serve this emerging sense of a secular national community among the people of India. Hence, the political ideology of secular nationalism differentiated national identity and secular interests from one’s religious identity.

Liberals from all walks of life such as Mahadev Govind Ranade, Surendranath Banerjea, G. Subramania Aiyar, Pherozeshah M. Mehta, Gopal Krishna Gokhale, Abdul Rasul, Dadabhai Naoroji, Badruddin Tyabji, and Kashinath T. Telang were some of the luminaries who propounded the political values of secular nationalism under the banner of Indian National Congress.

Professor Bipen Chandra, an eminent historian of modern India, who had done decades of research on the various aspects of the Indian national movement, highlights that the creation of a secular State had been an important concern of the Indian national movement for freedom. His observation sums the nation’s political consciousness:

A very important part of the vision of the movement from the very beginning was secularism. It is very interesting that the national movement, especially from 1880s onwards when the Indian National Congress was founded, never took up a religious issue nor did it ever criticize the British for being Christians. Not once was it said that the British rule should go because the rulers are Christians - a very minority religion in India. Nor was a religious critique made of colonialism or of British rule. From the very beginning the notion that religion should be separated from the state was accepted. This was the vision unanimously accepted since the days of Dadabhai Naoroji, Pherozeshah Mehta, and Gopal Krishna Gokhale to the very end, even when our country was forced to accept partition. The movement never accepted communalism. And that is why though the country was partitioned, because we could not rout communalism - it was communalism, which was successful in partitioning our country - still we managed to create a secular constitution. Secularism was a basic pillar of the national movement.120

Ibid., p. 8-9.


See the “Speeches delivered by Mr. Mahadev Govind Ranade at the Indian Social Conference” held in Lucknow in 1900”, in Indian Nation Builders (Delhi, Mittal Publications, 1989), vol. 1, pp. 12-31.

See the “Peroration of the Presidential Address” of S.Banerjea given at the Eighteenth Session of the Indian National Conference held at Ahmedabad in 1902, ibid., pp. 71-84.

See his “Presidential Speech” delivered at the North Arcot District Conference in 1907, ibid., pp. 98-141.

See his “Speech delivered in Welcoming the Delegates of the Twentieth Indian national Congress”, ibid., pp. 184-208.


See his “Presidential Address” given at the Barisal National Assembly on Hindu-Muslim unity and political co-operation, ibid., pp. 376-405.

See his “Message To The Congress” held at Benares in 1905, ibid., vol. 2, pp. 27-39.

See his “Presidential Address” given at the Third Indian National Congress held in 1887, ibid., pp. 137-150.

See his speech in Bombay Town Hall on the administration of justice and sense of fair play in India under British rule in regard to the “Ilbert Bill”, ibid., vol. 3, pp. 17-25.

Theodore De Bary, Sources of Indian Tradition, op. cit., vol. 2, pp. 106-152.

Bipen Chandra, Essays On Indian Nationalism, op. cit., p. 44.
1.2.4.3. Communal Nationalism

At the beginning of the twentieth century, nationalism in India, nevertheless, took an unhealthy turn towards Hindu and Muslim communalism. Communalism in its extreme form is a modern phenomenon peculiar to India. It denotes a narrow group mentality of exclusive loyalty to one’s religious community often causing antagonism towards people of other religious communities and even willing to sacrifice national interest for the advancement of the interest of one’s own religious community.121 In his systematic study of the growth of communalism in modern India, Dr. Bipan Chandra Says:

Communalism is the belief that because a group of people follow a particular religion they have, as a result, common social, political and economic interests. It is a belief that in India, Hindus, Muslims, Christians and Sikhs form different and distinct communities which are independently and separately structured and consolidated.122

According to Bipan Chandra, communalists identify secular interests exclusively with the interests of their respective religious communities. The pursuance of these secular interests in a manner benefiting only to a particular religious community becomes detrimental to the interests of the larger national community and creates communal tension.123

Asghar Ali Engineer who has also done an extensive research on the phenomenon of communalism in India, shares the view of Bipan Chandra. In his attempt to identify the reasons for the growth of communalism in India, A.A. Engineer points out, “Secular demands, either socio-economic or political in nature, voiced by a religious community by virtue of its belonging to a particular religion constitute the core of communalism.”124 Engineer is of the opinion that in India religion is not the root cause of communal conflicts. Religion is only used as a powerful emotive instrument in the hands of the elites of various religious communities for the purpose of achieving secular ends. Communalism in India is very much a socio-economic phenomenon rather than a religious issue.125

The Muslim communal nationalism arose at the time when the All India Muslim League, which was a political body, was founded in the year 1906. It was an elite Muslim organisation. The League’s objective was to protect the separate communal national identity of the entire Muslim community in India and to seek legal safeguards until the goal of separate Islamic State was achieved.126 Hence, in 1909 the League obtained separate electorates for Muslims. Muslim seats were reserved in both central and provincial councils for which only Muslims could vote. The system of separate electorates encouraged communal sentiments of various religious communities in the Indian subcontinent.127

The factors that influenced the Muslims to justify their cause were many. The blending of Hinduism with nationalism by some Hindu extremists in the Indian National Congress,128 the anti-Muslim reactions of the Hindus over the partition of Bengal in 1905,129 the Hindu-Muslim riots,130 the Hindu revivalism spearheaded by a religious body known as the Arya Samaj and the Hindi-Urdu controversy in North India131 were some of the causes that created an atmosphere of fear and suspicion among Muslims. These issues

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121 For an extensive study of communalism and communal politics in India see B. Chakrabarty, ed., Secularism and Indian Polity (New Delhi, Segment Book Distributors, 1990); Bipan Chandra, Communalism in Modern India (New Delhi, Vikas Publishing House, 1989); Asghar Ali Engineer & M. Shakir, eds., Communalism in India (New Delhi, Ajanta Publications, 1985); Asghar Ali Engineer, Communalism and Communal Violence in India (New Delhi, Ajanta Publications, 1989).
122 Bipan Chandra, Communalism in Modern India, op.cit., p. 1.
123 Ibid., pp. 2-3.
124 Asghar Ali Engineer, Communalism and Communal Violence in India, op.cit., p. 189.
125 Ibid., p. 190.
126 R.C. Majumdar, History, vol. 11, pp. 149-150.
127 Ibid., p. 157.
130 Ibid., vol. 10, pp. 332-336; vol. 11, pp. 159-160.
led them to isolate themselves from the mainstream secular national movement headed by the Indian National Congress.

R.C. Majumdar and K.M. Panikkar point out that parallel to the growth of Muslim communal nationalism, the Hindu communal nationalism also arose to safeguard Hinduism, and the interests of those who belonged to Hindu religion and to counter-balance the communal ideology of the Muslim League.132

In the year 1922, a militant Hindu organization known as the Hindu Mahasabha was formed to spearhead the Hindu communal nationalism. It was an elite Hindu political organization. Vir Savarkar, the President of the Hindu Mahasabha from 1937 to 1942, propounded the ideology of Hindu politics known as Hindutva (Hindu nationalism), which was modelled on Fascism and Nazism. This is something that the founder fathers of Hindutva openly admit in their writings.

Commenting on V.D. Savarkar, the founding father of the concept of Hindutva, Christophe Jaffrelot has the following to say:

More instrumental than anyone else in bringing about this qualitative leap was another Maharashtrian Brahmin, Vinayak Damodar Savarkar, the former head of the terrorist group and a future President of the Hindu Mahasabha (1937-42). His ‘Hindutva: who is a Hindu?’ published at Nagpur in 1923, is a basic text for nationalist “Hinduness” (the generally accepted translation of “Hindutva”). This work perfectly illustrates the mechanism of Hindu nationalist identity-building through the stigmatisation and emulation of “threatening others”. Savarkar wrote the book in 1922, while in prison in Ratnagiri…

Nevertheless Savarkar discovered nationalism in his study of the “threatening others” and especially his study of nationalist movements in Europe. When he was a young revolutionary in Maharashtra he was inclined to model himself on Mazzini, while the secret society, Abhinav Bharat (Modern India), which he founded in 1904, was probably intended to resemble Mazzini’s Young Italy organization. After settling down in England in 1906 he read Mazzini’s political writings, and his autobiography, which he translated in Marathi and sent to India for publication. In his introduction to this study, he linked Garibaldi to Shivaji and Mazzini to Shivaji’s guru, Ramdas…The technique of matching European models of action can also be seen in Hindutva where Savarkar declares: “I read the life of Mazzini and I exclaim ‘How patriotic they are!’ I read the life of a Madhvacharya (founder of Vaishnavite sect) and exclaim ‘How patriotic we are!’ Such sentiments suggest that Savarkar learnt what nationalism was from western experiments and then tried to apply this imported concept to his own country, a process that relied on a new construction of tradition.133

While trying to ascribe the defining characteristics of a Hindu, Savarkar identified race, religion and nationality as a single unit. He wrote, “A Hindu means a person who regards this land of Bharat varsha, from the Indus to the seas as his Fatherland as well as his Holy Land, that is, the cradle land of his religion.”134 His definition of Hindutva or Hinduness further clarifies the ideology of Hindu communal nationalism:

Hindutva embraces all departments of thought and activity of the whole being of our Hindu race. Hindutva refers to a people united by a common country, blood, history, religion, culture and language. The Hindus are vastly more than a religious community, they are a nation.135

The idea of “Two Nation” theory136 was the logical consequence

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135 Ibid., p. 4.

136 There is an opinion among scholars that the idea of “Two Nation” theory
of the Hindutva ideology. For, Savarkar wrote, “India cannot be assumed today to be under Unitarian and homogeneous nation, but on the contrary, there are two nations in the main, the Hindus and Muslim.”

The Rashtriya Swayam Sevak (RSS) is another Hindu fundamentalist and militant organization founded by Dr. Keshav Hedgewar in 1925. Just as the Hindu Mahasabha, the RSS propagated the ideology of Hindu Rashtra (Hindu nation-state) modelled after Italian fascism. While Commenting on the fascistic character of the Rashtriya Swayam Sevak, Christophe Jaffrelot made this observation:

The fascistic dimension of the RSS is suggested by its paramilitary style. In 1926, Hedgewar introduced a uniform - consisting of khaki shorts, khaki (later white) shirts and black forage capes - which has already been partly adopted by the Corps of volunteers which he set up at the 1920 session of Congress at Nagpur. The shakhas also observed strict discipline symbolized by the detailed code of regulations for the daily assembly and dismissal of the company of swayamsevaks and by their behaviour when saluting the flag: the ‘volunteers’ stood to attention, with the right hand held at chest level, palm downwards, head bowed; they were arrayed in ranks in order of age. On some occasions, such as the festivals of Dasahara, they marched in step through the streets holding their lathis to demonstrate the strength of the movement. These elements suggest that the RSS should be regarded as ‘an Indian version of fascism’…The RSS had already assumed its final form by the time of the first contacts between the Hindu nationalists and the European fascists and neither Hedgewar nor Golwalkar developed a theory of the state and the race, a crucial element in fascism and Nazism.

The first contacts between the Hindu nationalists and the European fascists took place in the 1930s…In the late 1930s, both Hindu Outlook and Mahratta praised Franco, Mussolini and Hitler. Moreover, in late 1938, the volkischer Beobachter, the mouthpiece of the German National Socialist Party, took an interest in Savarkar’s activities. The views expressed by RSS leaders about European fascist movements during this period resemble those of the Hindu Sabahte in some respects but with the crucial difference that whereas the Hindu Mahasabha as a political party, was interested in the role of the state, the RSS was more concerned about the socio-political aspects of building the Hindu Rashtra.

Its supreme ideologue, M.S Golwalkar, asserted that Hindus were one nation from which non-Hindus were automatically excluded. The latter were expected either to adopt Hindu dharma and culture, or accept to be second-class citizens. His ideology was very significant in popularising the “Two nation” theory and the Hindu communal nationalism. In respect to the status of minorities he wrote:

The non-Hindu people of Hindustan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no idea but those

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138 Ibid., pp. 50-52.
of glorification of the Hindu race and culture, i.e., they must not only give up their attitude of intolerance and ungratefulness toward this land and its age long traditions but must also cultivate the positive attitude of love and devotion instead - in a word they must cease to be foreigners, or may in the country, wholly subordinated to the Hindu nation, claiming nothing …not even citizen’s rights.139

Similarly, M. A. Jinnah’s concept of the “Two nation” theory, which he expounded during the latter part of the freedom struggle, was also significant in his effort to popularise Muslim communal nationalism, which resulted in the partition of the sub-continent. In his presidential address to the all India Muslim League session held in 1940, M.A. Jinnah advocated for the cause of Islamic nationalism. He declared:

Islam and Hinduism are not religions in the strict sense of the word, but are in fact different and distinct social orders. The Hindus and Muslims have different religions … They belong to different religious philosophies, social customs and literatures. They neither intermarry nor interdine together; and indeed they belong to two different civilizations which are based mainly on conflicting ideas and conceptions. It is quite clear that Hindus and Muslims derive their inspiration from different heroes and different episodes. Very often the hero of one is a foe of the other … to yoke together two such nations under a single state, one as a numerical minority, another as majority, must lead to growing discontent and final destruction of any fabric that may be built up for the government of such a state. Mussalmans are not a minority …Mussalmans are a nation according to any definition of the nation. And they must have their homeland, their territory, and their state.140

Despite the communal hostility to each other, the Hindu Mahasabha and the Muslim League had agreed on one point that India could not be regarded one nation because of its religious and ethnic heterogeneity. V.D. Savarkar asserted time and again that Hindus and Muslims were “Two Nations”.141 In the same way, M.A. Jinnah held that it was a dream that the two communities could ever form a common nationality, which would lead only to disaster.142 The idea of nationalism propounded by the Hindu Mahasabha, the RSS and the Muslim League was communal nationalism because the concept of nation-state in their thinking was identified with religio-ethnic boundaries.

1.2.4.4. The Growth of Secular Nationalism

The Indian liberals who committed themselves to the principles of secular nationalism carried forward the spirit of renascent India and its humanistic values in the political arena with multiple interests. Their objectives were to free India from foreign rule and to establish swaraj (self-rule) and to build India as a modern nation-state under socialist, secular democratic principles, wherein the values of human dignity and solidarity among various sections of the people would be fostered for national integration and social amity.143

These liberal stalwarts were the founding members of the Indian National Congress (INC), which was founded in 1885 under the leadership of a retired British civil servant, Allen Hume. The growth of Indian nationalism as a non-communal political movement for national struggle to attain Independence was led by the INC. Right from its inception, the Congress represented the national aspirations of the people of all caste, creed and language and its membership was open to all.

This secular approach that was adopted by the INC was, certainly, rooted in the Indian ethos of pluralism. It was, nevertheless, expanded and enriched by the inspiration that the liberals received

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142 De Bary, Sources of Indian Tradition, op.cit., vol. 2, pp. 283-286.
from the humanistic values of liberty, equality and fraternity as evolved in the Western liberal political tradition. They were convinced that such open-ended humanistic values and national vision alone would unite people for a national struggle to attain swaraj in a land known for diversity of religions, races, castes, languages and cultures.144

Professor Bipan Chandra has made the following observation about the vision of swaraj and its legacy for free India:

Free India has been largely guided by the vision of Swaraj that generations of freedom fighters had. The Indian national movement was one of the greatest mass movements in world history. Moreover, especially after 1919, it was consciously built around the basic notion that the common people had to play an active role in their own liberation. They were to be the subjects and not the object of history…

The Indian national movement was fully committed to a policy based on representative democracy and the full range of civil liberties…What is of equal importance, the values of democracy and civil liberty were extensively promoted among the middle classes by the intelligentsia and then, after 1919, among the common people in the urban and rural areas by the grass-roots level nationalist political workers…

Secularism - defined as separation of religion from politics and the state, equal regard for all religions, absence of discrimination among citizens on grounds of religion and active opposition to communalism - was another basic constituent of the freedom movement’s view of independent India…(T)he strength of the secular content of the Indian national movement became obvious when, despite the partition and the communal orgy of 1946-47, independent India succeeded in making secularism a basic pillar of its Constitution as also its state and society.145

Right from the beginning, every effort was made to keep the Indian National Congress on a solid non-communal footing. The resolution of the Second Congress Meeting held in 1886 made it clear that religious consideration was irrelevant to membership in the nationalist movement headed by the Congress. The resolution stated:

The Congress is a community of temporal interests and not of spiritual convictions that qualify men to represent each other in the discussion of political questions; we hold their general interests in this country being identical, Hindus, Christians, Muslims, and Parsis may fitly as members of their respective communities represent each other in the discussion of public secular affairs.146

The leaders of the Indian national movement held the view that, though certain elements of cohesion and even sense of nationhood were found in India’s past history, India was not yet a structured nation. Hence, from the beginning, the secular national movement stressed on the importance of promoting the “process of nation-in-the-making.” The leaders of the movement under the banner of INC assumed that it was only by affirming and appreciating the immense cultural, linguistic, religious, regional and geographical diversities that India could become a structured secular nation-state.147

Influenced by the nineteenth century European concept of nationalism, that any people who constituted a nation were thereby entitled to self-government, the Congress committed itself to the task of inculcating the spirit of non-communal nationalism. The Indian National Congress asserted that India is one country despite the existence of hundreds of separate States on the sub-continent and that Indians constitute one nation despite all racial, religious, cultural and linguistic diversity. The leaders of the Congress, therefore, stressed that the pluralistic nature of the Indian society would not be an obstacle to establish a secular democratic State.148

147 Bipin Chandra, Essays On Indian Nationalism, op.cit., p.15.
148 Ibid., p. 45; also Theodore de Bary, Sources of Indian Tradition, vol. 2, pp. 150-152.
The example of Italian nationalists, Garibaldi and Mazzini, provided much of the early inspiration to Indian nationalists. Similar to the aims of Young Italy, the INC had two objectives (1) to end the British Raj, and (2) by isolating the communal forces, unite India under one secular nationalistic flag. In 1932 Maulana Syed Husain Ahemed Madani, a prominent Muslim leader gave a theoretical framework for non-communal nationalism: that “nations are formed from countries.” Therefore, people of different ethno-linguistic and religious communities in India belonged to one Indian nation.

The British opposed the idea on the presumption that the people of a multi-linguistic and multi-caste society could ever be regarded a nation. R.C. Majumdar reminds us that it was also an idea equally shared by the Hindu Mahasabha, the RSS and the Muslim League and also by the Communist Party of India at that time. Prominent Congress leaders refuted these assumptions. Jawaharlal Nehru, for example, posited the question that if ethno-religious criteria were to be the deciding factor for nationality there would be innumerable nations in India. He asserted that ultimately nationality consisted in the consciousness of unity of the people. Replying to Jinnah’s “two nation” theory he wrote:

Mr. Jinnah’s demand was based on a new theory he had recently proposed - that India consisted of two nations, Hindu and Muslim. Why only two, I do not know, for if nationality was based on religion, then there were many nations in India. Of two brothers one may be a Hindu, another a Muslim; they would belong to two different nations. They were nations which had no boundaries; they overlapped. A Bengali Moslem and a Bengali Hindu living together, speaking the same language, and having much the same traditions and customs, belonged to different nations. ...It seemed a reversion to some medieval theory ... Possibly the essential characteristic of national consciousness is a sense of belonging together and of together facing the rest of mankind... It may even be said that India developed in the past as a multinational state and gradually acquired a national consciousness... Today the most powerful states are multinational, but at the same time developing a national consciousness, like the U.S.A. or the U.S.S.R.

The nationalists advocated the proposition that all who lived in the territorial unit of India, and acknowledged it their homeland, belonged to the one Indian nation. From the Muslim point of view, Maulana Abdul Kalam Azad, one of the prominent leaders of the Indian National Congress, gave the theoretical justification to the territorial and secular nationalism in which Hindus and Muslims formed one nation. Azad referred to the seventh century “covenant” that took place between the Muslims and the Jews of Medina through which they were declared “one people” in defence against the hostile Quraish tribes. Azad rendered the Arabic phrase “one people” into “one nation” and interpreted the covenant as a historical precedent for the formation of a common Indian nationality of the Muslims and the Hindus.

In the context of growing menace of communal nationalism created by the Hindu-Muslim hostility, the Congress reiterated its position that the nationalist struggle was not for the creation of a Hindu Raj, but for a united secular and free Indian State, which would ensure equal rights and obligations to all citizens irrespective of their religious affiliation. To this effect, the objective Resolution adopted by the Congress in its Karachi session in 1931 said, “The state shall observe neutrality in regard to all religions.”

150 Cf. Donald E. Smith, op.cit., pp. 139-140.
151 See for a detailed study in R.C. Majumdar, History, op.cit., vol. 11, chapters 15, 21, 30.
152 Jawaharlal Nehru, The Discovery of India, op.cit., pp. 415-416.
153 Quoted in Donald E. Smith, op.cit., p.144. On the basis of this historical covenant of the seventh century, the Jamiat Ulema-e-Hind interpreted that the Muslims and non-Muslims of India have entered into a covenant to establish a secular state. The covenant, they claimed, has been embodied in the Constitution of India. See W.C. Smith, Islam in Modern History, op.cit., pp.284-285.
during the freedom struggle, nationalism signified the freedom movement of the people of India who fought not only against the British Raj but also against all separatist-political forces built on ethnic and religious loyalties, which were known as communalism. In like manner, in the post-independent India the antithesis of communalism has been secularism that professed to give equal regard for all religions in the political community.

This has been the political attitude held by most nationalist leaders from Gandhiji to Maulana Abdul Kalam Azad. They acknowledged the fact of plurality of religious communities and gave importance and the need to cultivate the culture of peaceful co-existence in one nation-state.156 So, the political philosophy of Indian secularism evolved in the context of a political attempt to unite together heterogeneous communities of peoples divided on religious backgrounds into a modern nation-state. This required on the part of the State a total rejection of communalism and affirmation of a constitutional policy to separate politics and other secular institutions from religious sanction.157

Commenting on the evolution of the secular nationalism in India, Dr. Donald E. Smith points out, “The main current of Indian nationalism assured the separation of religion and politics, there was no conflict between India’s religious pluralism and the goal of independence with political unity.”158 As a result, secularism was conceived by Nationalist leaders to work out a political philosophy founded on liberal democratic values that acknowledged the national fact of religious pluralism, and guaranteed equal regard for all regions (Sarva Dharma Samabhava) and committed for a welfare State, which was not altogether new to the political ethos of India. Dr. Satish Chandra who has done studies on the various aspects of Indian national movement says that secularism was projected as a political policy at the time of nationalist movement for swaraj to meet two challenges: first to neutralize the challenges of communalism and to strengthen the forces of national integration. Secondly to provide a non-religious foundation for nationalist aspiration, which all Indians irrespective of their religious affiliations would share.159

Thus, we may conclude that secularism as a political philosophy arose in the modern Indian polity not on account of religion-state conflict nor religious wars as it had been in the west, but “as an attempt to unify the followers of different religious faiths for national solidarity in their struggle against foreign rule by making secularism the premise of a united free India.”160 As Sarla Jhingran in her recent study points out that equal regard for all religions (Sarva Dharma Sanabhava) became “pivotal to Indian conception of secularism”.161 This positive emphasis of Indian secularism towards religion and its dynamic character towards human welfare would become clear to us when we look into the debates on the concept of “secularism” that took place while framing the Constitution, and later in the Indian Parliament. This would be the matter for our study in the section that follows.

1.2.5. The Making of a Secular Constitution

After the independence of India on August 15, 1947, the Drafting Committee was appointed by the Constituent Assembly on August 29, 1947. It was charged with the duty of preparing a Constitution in accordance with the decisions of the Constituent Assembly. The Government of India Act of 1935 supplied a large part of the basic framework to work out the new Constitution. However, important principles and constitutional provisions were adopted mostly from the constitutional systems of Great Britain and United States. Part III of the Indian Constitution which deals with fundamental rights, including the provisions dealing with the Indian form of secularism as given in articles 25 to 28 have been adopted mostly form the secular provisions of the of United States Constitution.

158 Donald E. Smith, op.cit., p. 141.
160 Ibid., p. 70.
However, at the time of drafting of the Constitution and during the debates which took place in the Constituent Assembly, the members of the Constituent Assembly refused to add the terms “secular” or “secularism” either in the Preamble of the Constitution or in the articles dealing with the secular provisions of the Constitution. At that time these terms had a compelling sense of atheistic connotation, especially as it was in usage in the Western countries. Therefore, the Constituent Assembly omitted their usage in the Constitution. This calls for explanation. We provide it in the following sections.

1.2.5.1. The Omission of the term ‘Secular’ In the Constitution

On December 13, 1946, Mr. Jawaharlal Nehru moved the Objectives Resolution in the Constituent Assembly, which was passed on January 22, 1947. The Objectives Resolution gave expression to the ideals and aspirations of the people of India. Its principles were to guide the Constituent Assembly in its deliberations in making the Constitution. The principles embodied in the Objectives Resolution were incorporated into the Preamble of the Constitution of India. Some of the provisions of the Objectives Resolution read:

(1) This Constituent Assembly declares in its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and draw up for her future governance a Constitution…

(4) Wherein all power and authority of the sovereign Independent India, its constituent parts and organs of Government, are derived from the people; and

(5) Wherein shall be guaranteed and secured to all the people of India, justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

(6) Wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

(7) Whereby shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilized nations, and

(8) This ancient land attains its rightful and honoured place in the world and makes its full and willing contribution to the promotion of world peace and the welfare of the mankind.162

It is surprising to note that the Objectives Resolution did not mention the terms ‘secular state’ or ‘secularism’ even though clause (5) of the Resolution was definitely secular in character. The terms did not occur in the long speech Mr. Jawaharlal Nehru delivered at the time of moving the Resolution in the Constituent Assembly.163 They were also not referred to by Dr. B. R. Ambedkar, the Chairman of the Drafting Committee, in his speech given at the time of introducing the Draft Constitution in which he highlighted the salient features of the Draft.164 The terms, moreover, did not find a place in any part of the Constitution. The omission of the words ‘secular’ and ‘secularism’ are not accidental, but deliberate. The reasons for the omission would become clear when we access the debate on secularism, which took place in the Constituent Assembly.

1.2.5.2. The Constituent Assembly Debates on Secularism

The meaning of the concept of secular State and secularism and their inclusion in the Constitution were debated in the Constituent Assembly. Professor K.T. Shah, for instance, attempted twice to insert the concept ‘secular’ in the Constitution. On both occasions Dr. B.R. Ambedkar opposed Shah’s proposals.

Professor K.T. Shah’s first attempt was put forward in the form of an amendment to add the words “Secular, Federal and Socialist” to clause (1) of Article 1 of the Draft Constitution, so that the amended article would have read, “India shall be a Secular,
Federal, Socialist Union of States.” 165 He opined that the insertion of the term ‘secular’ would be a counter-check to the prevailing communal and sectarian tendencies, which might gravely tarnish the state’s egalitarian approach to all its citizens. 166 Professor Shah’s second attempt was presented in the form of a proposal for a new article that read, “The State in India being Secular shall have no concern with any religion, creed or profession or faith, shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizens or other persons in the Union.” 167 He, nevertheless, hastened to explain that by absolute neutrality he did not mean “the utter ignorance or neglect” 168 of religious institutions of the people by the State.

While professor K.T. Shah’s proposals were rejected, the framers of the Constitution, on the other hand, took care to emphasize the secular character of the Constitution. For example, when the Constituent Assembly was finally considering the Draft Preamble of the Constitution, Professor H. V. Kamath proposed an amendment for prefixing to the Preamble the words “In the name of God”. His proposal was strongly opposed on the ground that the invocation of God was inconsistent with the freedom of faith guaranteed by the Constitution as it was referred to in the Preamble itself. 169

In fact, the term, ‘God’ is not found anywhere in the Constitution except other than the reference given in Schedule III. 170 This Schedule has the provision for the forms of taking oaths or affirmations and provides an option to the person who is called upon to take the oath or give the affirmation either to do so in the name of God or to affirm solemnly. It means that the framers of the Constitution opted for a secular State, but refrained from the inclusion of the terms ‘secular state’ or ‘secularism’ in the Constitution.

Scholars give various interpretations for the omission. According to Ayyub Abu Syeed, the reason for the omission of the term ‘secular’ was that it was not found in “ancient Scriptures”, and then went on to explain that the framers of the Constitution associated this term “with a spirit of antagonism towards everything that is signified by religion”. 171 Dr. Ved Prakash Luthera, in his well-argued doctoral thesis, The Concept of Secular State and India, emphatically brought out his view that India was not a secular State. He observed that the framers of the Constitution did not include the term in any part of the Constitution because they did not intend India a “secular state” as this term was generally understood in the Western political tradition. 172 Similarly, Dr. Donald E. Smith, a staunch exponent of the secular character of the Constitution of India, opined that, in its rigid sense, the inclusion of the word ‘secular’ in the relevant provisions of the Constitution would have contradicted the tenor of Article 25 which, while guaranteeing freedom of religion, equally permits extensive State intervention in matters connected with religion in the interest of social reform.

The observation of Dr. P.B. Gajendragadkar, the former Chief Justice of India, seems to resonate with the mind of the makers of the Constitution. He commented:

The omission of the word ‘secular’ or ‘secularism’ is not accidental, but was deliberate. It seems to me that the Constitution-makers were apprehensive that if the words ‘secular’ and ‘secularism’ were used in suitable places in the Constitution, they might unnecessarily introduce, by implication, the anti-religious overtones associated with the doctrine of secularism as it had developed in Christian countries …making religion almost irrelevant… That is why

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165 Ibid., p. 399.
166 Ibid., p. 400.
167 Ibid., pp. 815-816.
168 Ibid., p. 816.
169 Ibid., vol. 10, pp. 432-442.
170 The Third Schedule, which contains the Forms of Oaths of affirmations which one may “swear in the name of God” or “solemnly affirm as provided in articles 75 (4), 99, 124(6), 148(2), 164(3), 188 and 219 of the Constitution of India.
172 V. P. Luthera, op.cit., pp. 62-63.
the Constitution makers deliberately avoided the use of the word ‘secular’ or ‘secularism’ in the relevant provisions of the Constitution.173

These opinions of the scholars could be further corroborated by the observation of the various views expressed on the subject by the members of the Constituent Assembly. The overwhelming opinion that arose during the debate on the subject was for secular State. There was, however, a small minority who voiced their claim in favour of a Hindu State on the ground that after the partition of the country and after Pakistan turning into an Islamic State, opting for secular State had no meaning and, therefore, India must be a Hindu State. Lokenath Misra, for example emphasized:

If you accept religion, you must accept Hinduism as it is practiced by an overwhelming majority of the people of India... Our ‘secular state’ is a slippery phrase, a device to bypass the ancient culture of the land... Do we really believe that religion can be divorced from life; or is it our belief that in the midst of many religions we cannot decide one to accept? If religion is beyond the ken of our state, let us clearly say so and delete all reference to rights relating to religion.174

Shri Chudri Ranbir Singh voiced his opinion that a secular State is non-denominational and non-sectarian State. He said:

Our aim today is to set up a secular state - non-denominational state. I cannot, therefore, see any reason why seats should be reserved for minorities or sectarian groups...our object of establishing a secular state in this country would remain merely an unrealized dream if we decide to provide safeguards on grounds of religion.175

Hussian Imam suggested that the secular State is a non-religious State. He clarified what is meant by a non-religious State: “Secular state does not mean that it is anti-religious...but non-religious and as such, there is a world of difference between irreligious and non-

religious.”176 Similarly, Prof. H.V. Kamath claimed that a Secular state should not identify itself with any particular religion. He suggested: “When I say that a State should not identity itself with any particular religion, I do not mean to say that a State should be anti-religious or irreligious.”177 Shri Lakshmikanda Maitra emphasised religious non-discrimination as the essential criterion of a secular State. He pointed out:

By secular state, as I understand it, is meant that the state is not going to make any discrimination whatsoever on the ground of religion or community against any person professing any particular religious faith. In other words in the affairs of the state the professing of any particular religion will not be taken into consideration at all. This I consider to be the essence of a secular state.178

Sri L. Krishnaswami Bharathi commented that religion is not incompatible with the concept of secular State and then he added “To say some religious people should not do propaganda or propagate their views is to show intolerance on our part”.179 Similarly, Sri K.M. Munshi also concurred with the opinion of Sri L.K. Bharathi in regard to propagation of one’s faith in a secular State.180 Sri Mohd. Ismail Sahib and Sri Tajamul Husain highlighted that imparting religious education either in State institutions or in any educational institutions partly maintained out of State funds would not be in contravention to the tenet of the secular State.181

These opinions and views on secularism and the secular State, which were expressed in the Constituent Assembly, were also shared by some political luminaries of the time. Expressing his views on the nature on the secular State in India, Dr. Rajendra Prasad, the first President of India said in a press report:

There are some who think that because we are a secular

175 Ibid., p. 289.
176 Ibid., p. 546.
177 Ibid., p. 825.
178 Ibid., p. 831.
179 Ibid., p. 834.
180 Ibid., p. 837.
181 Ibid., pp. 866-867, 871.
state, we do not believe in religion or spiritual values. Far from being so, it really means that in this country all are free to profess or preach the faith of their liking and that we wish well of all religions and want them to develop on their own way without let or hindrance.182

Mr. Jawaharlal Nehru, the first Prime Minister of India, who has been acclaimed as the architect of modern India said:

I am convinced that the measure of India’s progress will be the measure of our giving full effect to what has been called a secular state. That, of course, does not mean a people lacking morals or religion. It means that while religion is completely free, the state, including in its wide fold various religions and cultures, gives protection and opportunities to all and thus brings about an atmosphere of tolerance and cooperation.183

He explained further what he meant by a secular State: “A secular state is one in which every group, every individual, has the full freedom to function according to his own way, either culturally or in matters of religion.”184

Dr. B.R. Ambedkar, the Chairman of the Drafting Committee of the Constitution and later became the Minister of Law in the Union Government of India, explained the nature of the secular State as provided in the Constitution when the Hindu Code Bill was introduced in the Parliament. He said:

It is very good to say that we have proposed in our Constitution a secular state. I have no idea whether any members, when they use the words “secular state” really mean what the Constitution is intended to mean. It does not mean that we can abolish religion. It does not mean that we shall not take into consideration the religious sentiments of people. All that a secular state means is that this Parliament shall not be competent to impose any particular religion upon the rest of the people. That is the only limitation that the Constitution recognizes.185

Similarly, commenting on the nature of secularism as provided in the Constitution of India Dr. S. Radhakrishnan said:

It may appear somewhat strange that our Government should be secular one while our culture is rooted in spiritual values. Secularism here does not mean irreligion or atheism or even stress on material comforts. It proclaims that it lays stress on the universality of spiritual values which may be attained by a variety of ways.186

Sri Abdul Kalam Azad explained, “The essence of a secular and democratic state is freedom of opportunity for the individual without regard to race, religion, caste or community.”187 For Dr. Zakir Hussain a secular republic is one that is universal in its approach and provides opportunity to all for their integral development according to their choice. He commented:

A secular republic will have a Hindu University and a Muslim University as central Universities because only a secular republic has the large-heartedness, the tolerance and the vision to have them both… a secular republic, is not an anti-religious republic. It is only a tolerant republic, a large-hearted and impartial republic, denominationally unconnected with any exclusive creed, anxious to develop and stimulate the growth of all healthy elements in our national life.188

These observations bring home in obvious terms that the framers of the Constitution intended the State in India secular. They meant that the principles of the secular State as given in the relevant provisions of the Constitution would not be contrary to Indian ethos. Secularism envisaged by the framers of the Constitution recognises the validity of religion in people’s lives; accords equal respect and protection to all religions.

182 V. P. Luthera, op.cit., p. 159.
183 Ibid.
184 Ibid.
187 As quoted in V.P. Luthera, op.cit., p. 160.
188 Ibid, p. 165.
It is on account of these specific characteristics reposed in the concept of secularism by the Constituent Assembly that the terms, ‘secular state’ and ‘secularism’ were deliberately omitted from the relevant provisions of the Constitution. It was due to the fact that, in their Western usage, these terms conventionally conveyed negative connotation towards religion. They also implied a polity built on the sterile and static notion of a rigid wall of separation between religion and State, especially as used in the Constitution of the United States of America.189

1.2.5.3. The Inclusion of the term ‘Secular’ in the Preamble

The secular nature of the State in India is obvious from the aims and objectives of the Constitution as spelt out in the preamble. However, as we have seen, to avoid possible anti-religious impression that the term ‘secular’ might connote, it was omitted from the Preamble and other parts of the Constitution. The test of the original Preamble reads:

We THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, DEMOCRATIC REPUBLIC and to secure to all its citizens:
JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and opportunity;
and to promote among them all
FRATERNITY assuring the dignity of the individual and
The unity of the nation;
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of
November 1949, Do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.190

When the Revised Draft Constitution was submitted to the Constituent Assembly for final consideration, no modification was suggested in the text of the Preamble except the replacement of the date of enactment of the Constitution from “This-of-day, May 1948 A.D.” to “this twenty-sixth day of November, 1949”190

The Constitution (Forty-Second) Act of 1976, which was passed by the Parliament in November 1976, added for the first time the term “secular” in the Preamble. The Amended Preamble reads:

WE THE PEOPLE OF INDIA, having solemnly resolved to
Constitute India into a [SOVEREIGN SOCIALIST SECULAR
DEMOCRATIC REPUBLIC] and to secure to all its citizens:
JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and Worship;
EQUALITY of status and opportunity; and to promote among them all
FRATERNITY assuring the dignity of the individual and
[Unity and integrity of the Nation];
IN OUR CONSTITUENT ASSEMBLY this twenty-sixth
day of November 1949, DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.191

The Forty-Second Amendment was the most comprehensive and most controversial amendment made in the Constitution. The statement of objectives and reasons given in the Bill for the Forty-Second Amendment Act 1976 indicated that the said amendment was required inter alia “to spell out expressly the high ideals of Socialism and Secularism.”192 When the Bill was moved for

189 P.B. Gajendragadkar, Secularism and Indian Constitution, op.cit., p. 52.
191 By the Forty-second Amendment of the Constitution made in 1976, for the words [SOVEREIGN DEMOCRATIC REPUBLIC], the words [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] were substituted; and for the words [Unity of the Nation], the words [Unity and Integrity of the Nation] were substituted. See Constitution (Forty-second Amendment) Act, 1976, s. 2.
discussion in both Houses of the Parliament, the members
tested the Parliament’s power to amend the Preamble of the
Constitution. However, no one was opposed to the inclusion of the
term “Secular” in the Preamble.

Sri P.G. Mavalankar, for instance, argued that the Preamble
could not be amended. He said, “if you put the words today
‘socialist’ and ‘secular’ in the Preamble, I am afraid...some people
might say remove the word ‘democracy’. Already, the substance
has gone, the word may go next time.”

Srimati Indira Gandhi, the then Prime Minister, spoke for the reasons to amend the
Preamble. She emphasized:

The founding fathers of our constitution and of our country
had intended Indian society to be secular and socialist. They
have guided our laws all these years. All we are doing now
is to incorporate them in the Constitution itself for they rightly
deserve to be mentioned there. The specific mention of this
fact in the Preamble will provide the frame of reference to
the people, to the Government, to the judiciary and to the
world.

Sri. C. M. Stephen stated that after twenty-five years of
experiment, the Constitution would have to reflect the thought of
the nation. Concurring with the reasons for amendment put forward
by Srimati Indira Gandhi, he said:

It [The Constitution] has to set a course for the nation to
follow. It has to renew its oath to what it is meant for. It is
with that purpose that the Preamble is amended... Jana
Sangh is going about with a sectarian point of view and with
a divisive philosophy. Therefore, it is necessary that the
Preamble reminds the nation that the nation has committed
to secularism and there can be no going away from
secularism.

The members of the Rajya Sabha also consented to incorporate
the term ‘secular’ in the Preamble. Sri. B. Rachaih pointed out that
“the inclusion of the words ‘secular’ and ‘Socialist’ in the
Preamble of the Constitution reflect the urges and aspirations of
the people towards the direction in which the country wants to proceed.”

1.2.5.4. The Opinion of the Scholars

The inclusion of the term ‘Secular’ in the Preamble by the Forty-
Second Amendment Act of 1976 became a matter for debate among
constitution experts, political scientists and judges. Professor S.V.
Kogekar opined that the inclusion of the term ‘secular’ in the
Preamble is “only a recognition” of the secular nature of the
Indian State as enunciated in the various relevant provisions of the
Constitution. Sri H. Swaroop commented that the inclusion of the
term, Socialism, Secularism and Integrity, in the Preamble “are three
jewels, which make the nation’s most important manifesto a real
document of a socio-economic revolution.”

Justice R.A. Jahagirdar and Justice Robert D. Baird were
of the opinion that the addition of the term, secular, in the Preamble
is superfluous because it does not add anything new to the secular
nature of the State in India as already provided in the relevant
provisions of the Constitution. Dr. D.D. Basu, another expert of
the Indian Constitution, commented that a clarification to the meaning
of the secular provisions of the Constitution would have been much
more beneficial than adding technical word, ‘secular’, in the
preamble.

194 Ibid., p. 115.
195 Ibid., p. 116.
196 Ibid., p. 118.
197 S.V. Kogekar, Revision of the Constitution: R.R. Kale Memorial Lectures (Poona,
198 H. Swaroop, “New Jewels in the Constitution’s Preamble”, in Secular
199 R. A. Jahagirdar, “Secularism under the Indian Constitution”, in The Secularist,
200 Robert D. Baird, Religion in modern India (New Delhi, Manohar Publications,
201 D. D. Basu, Constitutional Law of India, third edition (New Delhi, Prentice-
Hall of India, 1983), p.3.
1.2.6. Conclusion: The Legacy of the Indian Heritage

In concluding this chapter, we sum up the indigenous Indian values and institutions, which influenced in the shaping of the modern secular political thought in India. First of all in the traditional Indian polity a distinction was maintained between the spiritual and temporal powers represented by the priest and king in the society.

Secondly, the long tradition of religious tolerance is integral to Indian way of life.202 It is grounded in the metaphysical understanding of the multifaceted nature of truth rather than motivated by considerations of political expediency.203 It has helped to grow diverse creeds and cultures amicably in the society and enabled the State to accord equal respect and protection to all faiths. The culture of religious pluralism has been part of Indian ethos, which is a constitutive value for the creation of a secular State. Implicit in this tradition is the basis for a common citizenship irrespective of religious affiliation.204 It is submitted, however, except in the attempt that emperor Akbar made to evolve a common citizenship throughout his empire, this idea was not found in the traditional Indian polity.205

Thirdly, the British policy of religious neutrality did not amount to a complete severance of State aid to religious welfare. The significant contributions of the British rule in India were the introduction of liberal education, egalitarian system of law, the initiatives of the State for social reform and rational system of political administration, which had ushered in the process of secularisation in education, law, culture and society. These were absent in the traditional Indian polity, but were important factors to further the process towards the creation of a secular democratic State.

Fourthly, the Indian National Congress that led the freedom movement defined its aims and objectives in terms of secular political principles. Except for a brief period marred by Hindu extremism, the Congress remained faithful to the objectives of establishing a non-communal welfare State. It is acknowledged that the Congress received much of its political inspiration from the liberal democratic tradition of the West and the humanistic movement of Indian Renaissance of the 19th century. Its secular political philosophy was, nevertheless, influenced by the culture of religious pluralism, which is a significant value to the Indian way of life.

The Indian National Congress represented, therefore, the secular national aspiration of the people of India on the basis of which it led a twofold national struggle, one to end the British rule and the other to repudiate the forces of communal nationalism. On the basis of secular political ideology, the Congress won political freedom and was able to achieve national integration of the diverse religious communities for the establishment of India as a Secular Democratic Sovereign State. As a political concept, secularism stands for the separation of the State from religion, equal protection of all religions and active opposition to communalism.

The philosophy of Indian secularism is to be seen, therefore, in terms of a unique synthesis between the Western institution of liberal democracy with an ancient civilizational heritage of the country that has got an innate capacity to respect and live in amity with plurality of faith communities as well as to absorb and integrate modernity with tradition.206

Thus, unlike Europe, secularism as a political ideology for the governance of the State evolved in India not out of religion-state conflict but to stop communal conflicts and to unite the multicultural and multireligious plural communities as a national community in human solidarity to fight against colonialism and communal nationalism. However, in both societies – Western and Indian societies – religious conflicts and violence have been the defining factors for the emergence of secular State.

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204 See above, chapter 2, Section 1.2.1.2, “The State and Religious Liberty”, p. 87.
205 Ibid.
Nevertheless, in the case of Indian secularism, the emphasis was not on marginalization of religion from society, but on the accommodation of religion in a way, which would not hamper sharing the benefits of secular national life by all citizens. This was the view held by most of the members of the Constituent Assembly at the time of framing of the Constitution. It involves a process of adjustment on the part of the State and religion for the common good of the citizens, that is to say, the good of all and each individual citizen. In chapter three, we study the constitutional and institutional details of this philosophy affecting the individuals and communities.
CHAPTER THREE

Human Dignity Central to the Philosophy of Indian Secularism

1.3. Introduction

In Western political history the concept of secular State and granting of religious freedom developed out of many different historical situations and philosophical impulses. In particular, they have been shaped by the process of secularisations of the State and sundering of the medieval fusion between the Church and the State. In practice, this separation hasn’t been always complete as seen earlier in chapter one. The question, however, may be raised whether the separation between religion and the State in the absolute sense can ever be maintained in this age of ours, when political decisions affect every aspect of human life, especially moral and religious issues, which people hold important in their lives.

In this chapter we study the secular provisions of the Indian Constitution that regulate the manner of separation between religion and the State in the Indian polity. These provisions do not intend to create a State that marginalizes religion from society, or to follow a policy of strict neutrality towards religion. As we have seen in chapter two, India’s historical antecedents, and the context in which secularism evolved as a political concept as well as its historical exigency do not warrant for such policies. The framers of the Indian Constitution envisaged a model of secular political system that protects all religions with equal regard (Sarva Dharma Samabhava) but under the framework of an egalitarian social order, informed by the principles of welfare State consistent with the progressive enhancement of human dignity.¹

The State’s approach towards religion embedded in these constitutional provisions is one that maintains a ‘principled distance’ from religion. This, however, does not prohibit the State to intervene when practice of religion contravenes public order, morality, health, egalitarian social order and objectives of the welfare State intended for integrated development of the individuals and communities. State intervention or non-intervention in the practice of religion depends upon which of the two better promotes substantive values like religious liberty, egalitarian social order, social justice and religious harmony which are constitutive of a life worthy of human dignity for all.

In this context, the Courts in India have taken upon themselves the task of giving judicial definition to ‘religion’ protected under the secular provisions of the country’s Constitution. They also have the burden of doing the sensitive job of differentiating ‘matters of religion’ protected under the same provisions from matters of secular interest added or associated with religious practices, which may be liable to the action of the State when needed to maintain common good and to promote social welfare and reform.

Hence, in this chapter our study is directed towards the contribution of the Indian judiciary by way of judgements issued by the Courts on several cases associated with religion allegedly affected by State intervention. The contributions of the Courts are very useful for us to understand the fundamental principle underlying the political philosophy of Indian secularism. Most of the cases selected for our study appeared before the Supreme Court of India in the 1950s and 1960s. These are of historic importance, because those were the important times in the history of the young nation in setting up the road map for public life regulated by secular laws governing people’s every day life.

Articles 25 to 30 and 325 of the Constitution contain the secular provisions. The central provisions are given in articles 25 and 26, which deal with individual and corporate freedom of religion. Most

of our research would revolve around these two articles. We study these articles and other allied articles by going through the judicial decisions on important cases appeared before the Supreme Court of India. We also substantiate our study by researching through the documents of the Constituent Assembly Debates, the commentaries of the Constitution, and opinion of the scholars. We limit our material for investigation only to those provisions dealing with the free exercise of religion and state restriction, state’s assistance to religion, and religion and the welfare state. These are directly connected with a set of substantive values that protect equal dignity for all.

1.3.1. The Need to Define Religion

The Constitution of India guarantees the protection of certain fundamental rights. They are given in articles 12 to 35, which form Part III of the Constitution. Among them articles 25 and 26 are the two central articles guaranteeing religious freedom. Article 25 reads:

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law -

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) 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. Explanation I. - The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II. - In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Article 26 reads:

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

Similarly Article 26 is the main article that provides the corporate freedom of religion governing the relation between the State and the freedom of religious bodies to their internal affairs. It states:

Subject to public order, morality and health every religious
denomination or any section thereof shall have the right
(a) to establish and maintain institutions for religious and
charitable purposes;
(b) to manage its own affairs in matters of religion;
(c) to own and acquire movable and immovable property;
and
(d) to administer such property in accordance with law.

Clause (b) of article 26 guarantees to every religious
denomination or any section thereof the right to manage its own
affairs in matters of religion and clause (d) gives them the right to
administer their property (institutions) in accordance with laws
passed by the State. It is obvious from the language of the clauses
(b) and (d) of article 26 that there is an essential difference between
the right of a denomination to manage its religious affairs and its
right to manage its property.

This means that a religious denomination’s right to manage its
religious affairs is a fundamental right protected by the Constitution.
No legislation can violate it except for health, morality and public
order. But the right to administer property associated with religion
can be exercised only “in accordance with law”. In other words,
the State can regulate the administration of religious property by
way of validly enacted laws. Hence, in the exercise of individual
and corporate freedom of religion as guaranteed in articles 25 and
26 of the Constitution of India, it is necessary to understand the
judicial definition of ‘religion’ as given in article 25(1) and ‘matters
of religion’ as provided in article 26(b). To define religion for judicial
purposes has been an onerous job for the judiciary both in the
Western countries and in India.

1.3.1.1. The Western Judicial Attempts to Define Religion

In many liberal democratic countries the tensions arising between
the right to practice religion and the State’s right to regulate it have
created the need to approach the Courts for judicial definition of

religion. The Courts in different countries have acknowledged that
it is not easy to give an adequate definition to religion acceptable to
all. For instance, in a case that appeared before the Australian
High Court, Chief Justice Latham of the Australian High Court
observed, “It would be difficult, if not impossible, to devise a
definition of religion which would satisfy the adherents of all the
many and various religion which exists, or have existed, in the
world…What is religion to one is superstition to another.”

In fact, as early as 1890 need arose in the United States of
America to give judicial definition to religion in the case of Samuel
D. Davis v. H.G. Beason. In this case, the U.S. Supreme Court
maintained the definition of religion as it is generally held in the
monotheistic religious tradition. The Court observed, “religion has
reference to one’s views of his relations to his creator and to the
obligation they impose of reverence for his being and character,
and obedience to his will.”

In another case of similar kind, which appeared before the
United States Supreme Court in 1965, the Court gave a liberal
interpretation to what amounts to religion. In this case, Mr. Daniel
A. Seeger, a conscientious objector from military service registered
his contention that his religion consisted in “belief in and devotion
to goodness and virtue for their own sakes”, which did not include
faith in a Supreme Being. He referred to Plato, Aristotle and Spinoza
to substantiate his position that his was an ethical belief in intellectual
and moral integrity without having belief in a divine person like the
God of the monotheistic religion.

Another conscientious objector, Mr. Jacobson, claimed that he
believed in “Goodness” as the “Ultimate Cause” of the Universe”
and that his religion amounted to faith in the “sum and essence of

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3 Adelaide Company of Jehovah’s Witness v. The Commonwealth 67 CLR 116
   (1943).
4 Ibid. at 123.
6 Ibid., p. 105.
8 Ibid., at 166.
one’s basic attitude to the fundamental problems of human existence.” Mr. Peter, a third registrant of the case, said that his belief in moral value objected him to destroy human life; and he claimed that this belief for him was “superior to his obligation to the state.”

Mr. Justice Clark who spoke for the Court in the instant case acknowledged the difficulty involved in giving a precise definition to religion agreeable to all. He then referred to several definitions of religion given by theologians and philosophers and pointed out that though all of them held diverse views as to the precise meaning of religion, there was something common in their approach to religion that it was “paramount” in the life of the believers. The learned Judge then concluded that all the three plaintiffs of the case had the right to exemption from military service since their beliefs were the sincere expressions of their moral and religious experiences that were “paramount in their lives.”

Mr. Justice Douglas while concurring with the opinion of the Court pointed out that there were many Buddhists living in different parts of the United States. They did not believe in “God” or the “Supreme Being” in the sense in which other Americans believed. He concluded that it was necessary that an extensive interpretation should be given to what amounted to religious belief so that any person opposed to war on the basis of a sincere belief, which in one’s life filled the same place as a belief in God, was to be granted exemption.

1.3.1.2. The Indian Judicial Attempt to Define Religion

In India the need to define religion was raised for the first time by B.R. Ambedkar when the matter pertaining to personal law and its relation to religion came for discussion in the Constituent Assembly. He pointed out:

"...The religious conceptions in this country are so vast that they cover every aspect of life from birth to death. There is nothing which is not religion and if personal law is to be saved I am sure about it that in social matters we will come to a standstill...There is nothing extraordinary in saying that we ought to strive hereafter to limit the definition of religion in such a manner that we shall not extend it beyond beliefs and such rituals as may be connected with ceremonials which are essentially religious. It is not necessary that the sort of laws, for instance, laws relating to tenancy or laws relating to succession should be governed by religion...I personally do not understand why religion should be given this vast expansive jurisdiction so as to cover the whole of life and to prevent the legislature from encroaching upon that field."

In the opinion of Dr. B.R. Ambedkar, what constitutes a ‘religion’ or ‘matters of religion’ is to be ascertained by limiting to religious beliefs and ceremonials, which are held as essentially religious in a particular religion, which is under judicial review.

The Indian Constitution has no explicit definition of ‘religion’ or ‘matters of religion’. Under the directive of article 32 of the Constitution, which provides the right to constitutional remedies, it is left to the Supreme Court to decide on the judicial meaning of such terms. In the early 1950s in a number of cases the Courts in India had been faced with the problem of defining ‘religion’ as given in article 25 (1) and ‘matters of religion’ as provided in article 26 (b). We shall now proceed to examine some of those specific cases, which were appealed before the Supreme Court of India for judicial classification.

We study five cases of historical importance where need arose to give judicial definition to “religion” and “matter of religion.” These are (1) Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Tirtha Swamiar of Sri Shirur Matt, AIR 1954 SC 282 (hereafter it will be referred to as the Sri Lakshmindra case); (2) Ratilal Panachand Gandhi v. State of Bombay, AIR
1954 SC 388 (hereafter it will be referred to as the Ratilal case); (3) Mohammad Hanif Quareshi v. State of Bihar, AIR 1958 SC 731 (hereafter it will be referred to as the Quareshi case); (4) Durgah Committee, Ajmer v. Syed Hussain Ali, AIR 1961 SC 1402 (hereafter it will be referred to as the Durgah Committee case); and (5) Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan, AIR 1963 SC 1638 (hereafter it will be referred as the Tilkayat case).

1.3.1.2.1. Sri Lakshmindra Case

The Sri Lakshmindra case15 arose out of the Madras Hindu Religious and Charitable Endowments Act 195116 passed by the Madras legislature in 1951. The object of the Act, as stated in its preamble, was to amend and consolidate the law relating to the administration and governance of Hindu religious and charitable institutions and endowments in the State of Madras. The Act contained sections dealing with the powers of the State with regard to the general administration of the Hindu religious institutions, their finances and certain other miscellaneous subjects.

Section 20 of the Act dealt with matters pertaining to the administration of Hindu religious endowments that were to be placed under the general superintendence and control of the Commissioner. The Commissioner was authorized to pass orders, which he deemed necessary, for the proper administration of these religious endowments. He was to ensure that the income from these endowments was spent for the purposes for which they were founded. Section 21 of the Act gave the Commissioner, the Deputy and Assistant Commissioners, and such other officials as might be authorized, the power to enter the premises of any religious institution or any other place of worship for the purpose of exercising any power conferred, or discharging any duty imposed by or under the Act, provided that the concerned officer exercising such power was a Hindu.

On constitutional grounds, the validity of the Act was challenged by Sri Lakshmindra Tirtha Swamiar, the mathadhipati of Sirur math17 who assumed also the office of mathadhipati of Udipi math at a time when it was under financial crisis. The Hindu Religious Endowment Board stepped in at this point to assist the Udipi math in getting out of its financial problems. Apparently the mathadhipati, Sri Lakshmindra Tirtha Swamiar, consented to the intervention as he signed over power of attorney to the manager appointed by the Board. But it seemed that the manager wanted his own way in all affairs of the math. This caused the mathadhipati to retract his power of attorney and to ignore the efforts of the Board, which filed a case against the mathadhipati. The mathadhipati appealed to the Supreme Court on the ground that the Board, whose powers were alleged to be unconstitutional, had violated his constitutional guarantees under articles 25 and 26 of the Constitution.

The Supreme Court found the case in favour of the math. While giving the judgement, it seems that the Court has taken a thoughtful approach to the meaning of “religion.” Besides the Supreme Court seemed to have given an indigenous meaning to what includes into the category of “secular activities” associated with religion. This ruling of the Supreme Court has been considered as one of the most important decisions in Indian jurisprudence with regard to the

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17 A “Math” (also spelt as math) is defined by the court as an institution for the promotion of the Hindu religion, presided over by the head of that institution known as mathadhipati whose duty is to engage himself in imparting religious instructions or rendering spiritual service. See V.P. Luthera, op.cit., p. 129.
The word “religion” has not been defined in the Constitution and it is a term which is hardly susceptible of any rigid definition. In an American case (vide Davis v. Benson, 133 U.S. 333 at 342), it has been said “that the term ‘religion’ has reference to one’s views of his relation to his Creator and to the obligations they impose of reverence for His Being and character and of obedience to His will. It is often confounded with cultus of form or worship of a particular sect, but is distinguishable from the latter.” We do not think that the above definition can be regarded as either precise or adequate. Articles 25 and 26 of our Constitution are based for the most part upon article 44(2) of the Constitution of Eire and we have great doubt whether a definition of “religion” as given above could have been in the minds of our Constitution-makers when they framed the Constitution. Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India like Buddhism and Jainism, which do not believe in God or in any Intelligent First Cause. A religion undoubtedly has its basis in a system of beliefs or doctrines that are regarded by those who profess that religion as conducive to their spiritual well being, but it would not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion, and these forms and observances might extend even to matters of food and dress.

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This passage, which has been frequently quoted by judges and jurists, broadened the protection guaranteed in the Constitution ‘to practice religion’ as given in article 25 (1). Commenting on clauses (b) and (d) of article 26, the Supreme Court held in the instant case:

Under art. 26 (b), therefore, a religious denomination or organization enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters.

Of course, the scale of expenses to be incurred in connection with these religious observances would be a matter of administration of property belonging to the religious denomination and can be controlled by secular authorities in accordance with any law laid down by a competent Legislature; for it could not be the injunction of any religion to destroy the institution and its endowments by incurring wasteful expenditure on rites and ceremonies. It should be noticed, however, that under Art.26 (d), it is the fundamental right of a religious denomination or its representative to administer its properties in accordance with law; and the law, therefore, must leave the right of administration to the religious denomination itself, subject to such restrictions and regulations as it might choose to impose.

A law which takes away the right of administration from the hands of a religious denomination altogether and vests it in any other authority would amount to a violation of the right guaranteed under cl. (d) of Art.26.

1.3.1.2.2. Ratilal Case

In the Ratilal case,21 the Supreme Court was once again appealed to decide on the judicial application of ‘religion’ and ‘matters of

20 Ibid., at 292.
religion' as implied in the right to exercise of religion protected under articles 25 and 26 of the Constitution. The case arose out of the Bombay Public Trust Act, 1950, passed by the Bombay State Legislature. Similar to the Madras Act of 1951, the object of the Bombay Act as stated in its preamble was to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Bombay.

Section 18 of the Bombay Public Trust Act, 1950, declared that it was obligatory upon the trustee of every public trust to which the Act applied, to make an application for the registration of the trust. Like section 21 of the Madras Act of 1951, section 37 of the Bombay Act also authorized the Charity Commissioner and his subordinate officers to enter and inspect any property belonging to a public trust. Section 44 of the Act provided that the Charity Commissioner might be appointed by a Court of competent jurisdiction or by the author of the trust to act as a sole trustee of a public trust. Section 74 gave powers to the Court to appoint a new trustee or trustees and the Court, after making inquiries, could appoint the Charity Commissioner or any other person as a trustee to fill up vacancies.

The Manager of a Jain public temple and Trustees of Parsi Panchayat Funds and Properties in Bombay challenged before the Bombay High Court the constitutional validity of the Bombay Public Trust Act of 1950. It was done on the ground that the provisions of the Bombay Act of 1950 contravened freedom to practice religion as guaranteed in article 25 (1) and freedom to manage matters of religion as protected by article 26 (b) of the Constitution.

The Bombay High Court denied the petition in the light of sub-clause (c) and (d) of article 26 of the Constitution, which provides the State with authority to enact the legislation as given in the Bombay Act. Therefore, the Bombay High Court resolved the case in favour of the State on the basis of the definition that the Court gave to religion in the instant case. This definition reduced religion to spiritual and moral aspects only and eliminated secular activities, like the property ownership and expenditure associated with religious practices, from the protection guaranteed in the Constitution. The Chief Justice, Mr. M.C. Chagla who delivered the judgment of the Bombay High Court said:

"Religion" as used in arts. 25 and 26 must be construed in its strict and etymological sense. Religion is that which binds a man with his Creator, but Mr. Sommaya on behalf of his client (Panachand) says that as far as Jains are concerned they do not believe in a Creator and that distinction would not apply to the Jains. But even where you have a religion which does not believe in a Creator, every religion must believe in a conscience and it must believe in ethical and moral precepts. Therefore whatever binds a man to his own conscience and whatever moral and ethical principles regulate the lives of men that alone can constitute religion as understood in the Constitution. A religion may have many secular activities, it may have secular aspects, but these secular activities and aspects do not constitute religion as understood by the Constitution.

The petitioner of the present case appealed to Supreme Court.

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On hearing the appeal, the Supreme Court refused to comply with the narrow definition of religion delivered by the Bombay High Court but reiterated its definition of religion given earlier in the Sri Lakshmindra case. Speaking for the Court, Mr. Justice Mukerjea in his judgment once again repeated:

What sub-cl. (a) of cl. (2) of Article 25 contemplates is not State regulation of the religious practices as such which are really of an economic, commercial or political character though they are associated with religious practices.

…The language of the two cls. (b) and (d) of Art.26 would at once bring out the difference between the two. In regard to affairs in matters of religion, the right of management given to a religious body is a guaranteed fundamental right which no legislation can take away. On the other hand, as regards administration of property which a religious denomination is entitled to own and acquire, it has undoubtedly the right to administer such property but only in accordance with law…A law, which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by Art.26 (d) of the Constitution…

A religion undoubtedly has its basis in a system of beliefs and doctrines which are regarded by those who profess that religion to be conducive to their spiritual well being, but it would not be correct to say as seems to have been suggested by one of the learned Judges of the Bombay High Court, that matters of religion are nothing but matters of religious faith and religious beliefs. A religion is not merely an opinion, doctrine … Religious practices or performances of acts in pursuance of religious belief are as much a part of religion as faith or belief in particular doctrines. Thus if the tenets of the Jain or the Parsi religion lay down that certain rites and ceremonies are to be performed at certain times and in a particular manner, it cannot be said that these are secular activities partaking of commercial or economic character simply because they involve expenditure of money or employment of priests or the use of marketable commodities. No outside authority has any right to say that these are not essential parts of religion and it is not open to the secular authority of the state to restrict or prohibit them in any manner they like under the guise of administering the trust estate.

In the Sri Lakshmindra and the Ratilal cases, the Supreme Court of India has given a liberal approach to the meaning of religion which includes not only faith, belief, doctrines, code of ethical rules but also rituals, ceremonies and observances done in pursuance of religious belief, which are regarded conducive to spiritual well being. It is surprising, however, that in two subsequent cases, Quareshi and Durgah Committee, the Supreme Court had given a guarded interpretation when it had to decide on ‘matters of religion’ as referred to in article 26 (b).

1.3.1.2.3. Quareshi Case

The Quareshi case is about prohibiting the slaughter of cows. It has got long constitutional history. The Constitution of India has certain Directives to the States that they expect to keep in view in the conduct of their policies. These Directives are listed in Part IV of the Constitution under the heading ‘Directive Principles of State Policy’. The Directive Principles are different from the rest of the articles of the Constitution in the sense that they are non-justifiable because they don’t have a legal force to bind them. That is, if the State acts in a way contrary to the Directives laid down in Part IV of the Constitution, its action cannot be challenged in the Court.

It is held that the Directive principles are, nevertheless, important. Their importance consists, as commented by M.C. Setalvad, a former Attorney-General of India, in that "they appear..."
to be like an instrument of instructions, or general recommendations addressed to all the authorities in the Union reminding them of the basic principles of the new social and economic order, which the Constitution aims at building.**31 Hence, article 48 of the Constitution of India is one of the Directive Principles. The objectives of this article are for the development of agriculture and animal husbandry on modern and scientific lines as well as for the preservation and improvement of the breeds of cattle, and prohibition of the slaughter of cows and calves and other milch and draught cattle. Article 48 reads:

The state shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter of cows and calves and other milch and draught cattle.

It may be appropriate here to point out that the directive for the prohibition of cow-slaughter as referred to in article 48, was made mainly out of respect for the religious sentiments of the majority community, the Hindus. As it is well known in India, cow has great religious significance for them. This article did not find a place in the Draft Constitution but was incorporated during the debates in the Constituent Assembly. Most of the members of the minority communities, the non-Hindus, who were in the Constituent Assembly, seemed to have consented to the Hindu religious sentiments associated with the provision against cow-slaughter.**32 However, some held that the Hindu sentiments predominated in the Constitution.**33

As follow-up to these Directives, some State Governments**34 have enacted legislation banning the slaughter of cows. Shortly after these enactments, three cases were petitioned before the Supreme Court challenging their constitutional validity.**35 The petitioners were Muslims, mostly of the Quareshi community, who were traditionally engaged in the butcher’s trade. The first among the three was the Quareshi case that challenged the legislations of the all three States, namely Bihar, Uttar Pradesh and Madhya Pradesh on the ground that they violated the constitutional right of the petitioners to carry out their trade.**36

The petitioners also contend that these legislations infringed on their right to practice religion because Islam enjoined on every Muslim to sacrifice one goat on the Bakr-Id day (the festival of sacrifice) or seven persons together may even sacrifice one cow. They claimed that cow sacrifice was customary among Indian Muslims on Bakr-Id day and the practice was “certainly sanctioned by their religion.”**37 Therefore, cow sacrifice was part of their practice and profession of religion protected by article 25 of the Constitution.**38 The Bihar Act placed a total ban on slaughter of all types of animals of the species of bovine cattle while the Uttar Pradesh Act did not protect the slaughter of buffaloes and the Madhya Pradesh Act allowed such slaughter under a certificate issued by certain authorities as mentioned in the Act.

In dealing with this case, the Supreme Court traced the history of cow slaughter in India and indicated that in the past many Muslim kings prohibited cow slaughter even on the Bakr-Id day.**39 Chief

36 “All citizens shall have the right…
(g) to practise any profession, or to carry on any occupation, trade or business. “Nothing in sub-clause (g)…shall affect the operation of any existing law in so far it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause…”
Clauses (1) g and (6) of article 19, The Constitution of India.
38 Ibid., at 740.
39 The Supreme Court noted that the Moghul emperor Babar not only prohibited
Justice Mr. Das who delivered the judgement of the Court stressed that the Islamic law gives option to sacrifice a camel instead of a cow or even permits to give gifts of charity as a substitute for animal sacrifice on the Bakr-Id day. Chief Justice Mr. Das argued further, as claimed by the State, that many Muslims do not sacrifice a cow on the Bakr-Id day. He, moreover, pointed out that three members of the Gosamvardhan (cow protection) Enquiry Committee appointed by the Government of Uttar Pradesh were Muslims. All the three concurred with the unanimous recommendation of the Committee for total ban on cow slaughter.

Mr. Das, C.J., who issued the judgment of the Court in the Quareshi case, stated that the Islamic law sanctioned cow sacrifice on the Bakr-Id day but did not enjoin it as an obligatory overt act in the practice and profession of Islamic faith and therefore, cow sacrifice was not essential. He said:

We have, however, no material on the record before us which will enable us to say, in the face of the foregoing facts, that the sacrifice of a cow on that day is an obligatory overt act for a Mussalman to exhibit his religious belief and idea.

In examining this case, the Court acknowledged that Islam sanctioned cow sacrifice. Nevertheless, Mr. Chief Justice Das ascertained that it was not “an obligatory overt act for a Mussalman to exhibit his religious belief” because Islamic law provides alternatives. The Supreme Court noted that instead of a cow, Muslims could sacrifice a camel or do acts of charity on the day of Bakr-Id.

The petitioners of the instant case pleaded that the impugned laws, if enforced, would affect adversely their trade and, therefore, violated the constitutional protection guaranteed under article 19.

It seems that the Supreme Court’s ruling on this case (Quareshi case) had taken into consideration the Hindu religious sentiments attached to the legislation of banning cow slaughter as one of the reasonable elements. Certainly, the Court was equally concerned with communal riots often arising on account of cow slaughter. The honourable judges of the Quareshi case acknowledged, “While we agree that the constitutional question before us cannot be decided on grounds of mere sentiment, however passionate it may be, we, nevertheless, think that it has to be taken into consideration, though only as one of many elements, in arriving at a judicial decision as to the reasonableness of the restrictions.”

1.3.1.2.4. Durgah Committee Case

In the Durgah Committee case, appeal was made once again to decide on “the matters of religion” which is protected under clause (b) of article 26. The history of the present case is as follows: In 1955, the Parliament had passed the Durgah Khawaja Saheb Act to administer the Durgah and the endowment of the Durgah Khawaja Moinuddin Chisti at Ajmer. This Durgah, which is a Muslim pilgrim centre built at the tomb of Khawaja Moinuddin Chisti who is a Chisti saint, has been visited by both Muslim and Hindu pilgrims.

Sections 4 and 5 of the Durgah Khawaja Saheb Act of 955, provided for the appointment of a Durgah Committee by the Central Government to administer and manage the Durgah endowment.

1. Similarly emperors Akbar, Jehangir, and Ahmad Shah prohibited cow slaughter. Nawab Hyder Ali of Mysore made cow slaughter an offence punishable with cutting off the hands of the offenders. 
2. Ibid., at 740.
3. Ibid., at 740.
4. Ibid., at 740.
5. Ibid., at 740.
According to the terms of sections 4 and 5 of the Act, the members of the committee nominated by the Government were to be Hanafi Muslims. Section 15 of the Act laid down the instruction that the Committee should follow the Muslim rules and tenets of the Chisti saint in performing and conducting the established rites and ceremonies at the tomb of the Chisti saint.

The Khadims (the traditional custodians of the tomb) challenged the constitutionality of the Act on the ground that it infringed upon their rights guaranteed in article 26(b), (c) and (d). Their challenge succeeded in the High Court of Rajasthan.\textsuperscript{47} In issuing the judgment, the Rajasthan High Court observed that the provisions for the appointment of the Committee members were \textit{ultra vires} to the extent that the appointment of the Committee members avoided members of the Chisti order who have the faith in the religious practices and rituals associated with the Chisti saint shrine. Other provisions of the Act affecting the privileges and duties of the functionaries of the shrine were also declared violative of articles 19 and 25 of the Constitution.

On appeal,\textsuperscript{48} the Supreme Court found that the provisions of the said Act were not violative of the Constitutional rights guaranteed to religious communities. The Court observed that the Act regulated only the secular practices associated with religion, which were not essential or integral part of religion. Mr. Justice P.B. Gajendragadkar who delivered the unanimous judgment of the Court said:

Whilst we are dealing with this point it may not be out of place incidentally to strike a note of caution and observe that in order that the practices in question should be treated as a part of religion they must be regarded by the said religion as its essential and integral part; otherwise even purely secular practices which are not an essential or an integral part of religion are apt to be clothed with a religious form and may make a claim for being treated as religious practices within the meaning of article 26. Similarly even practices

\textsuperscript{47} Syed Hussain Ali \textit{v.} The Durgah Committee, AIR 1959 Raj 177.

though religious may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself. Unless such practices found to constitute an essential and integral part of a religion their claim for the protection under Article 26 may have to be carefully scrutinized; in other words, the protection must be confined to such religious practices as are an essential and an integral part of it and no other.\textsuperscript{49}

In delivering the judgment of the instant case, Mr. P. B. Gajendragadkar, J., who spoke for the Court, stressed that 'matters of religion’ protected under article 26 (b) are those acts which are treated as essential and integral part by the religion. He cautioned that otherwise things that are not of religious concern can be brought under its ambit in such a way that religion can be used or manipulated to legitimate superstitious beliefs and practices which may harm instead of enabling human well being. This is the reason for the learned judge to strike a note of caution to differentiate ‘matters of religion,’ whose protection is guaranteed by the Constitution of India, from secular activities attached to religious practices.

1.3.1.2.5. Tilkayat Case

When cases have been brought before the Courts in India on contentious issues regarding ‘matters of religion’ as referred to in clause (b) of article 26 of the Constitution, judges have relied on literary sources as well as traditional usages and practices of the religion which was under scrutiny to ascertain its essential aspects as claimed by the petitioners or the contending parties. In this regard, it is informative for our purpose to study the Tilkayat case,\textsuperscript{50} which throws more light on the Indian judicial position on ‘matters of religion,’ as given in articles 25 and 26 of the Constitution.

The Tilkayat case arose out of the Nathdwara Temple Act of Rajasthan\textsuperscript{51} enacted for the management of the Nathdwara temple through a Board. Section 16 of the Act provided that subject to the
provisions of the Act and of the rules made there under, the Board was to manage the properties and “affairs of the temple”\(^{52}\) and arrange for the conduct of daily worship and ceremonies and of festivals in the temple “according to the customs and usages of the denomination”\(^{53}\) to which the temple belonged.

The custodians of the Nathdwara temple challenged the Nathdwara Temple Act of Rajasthan (Rajasthan Act 13 of 1959) before the Rajasthan High Court. The plaintiffs petitioned that section 16 of the Act violated the rights of the denomination to administer its property as protected by clause (d) of article 26 of the Constitution as well as infringed the denomination’s right to manage its own affairs in “matters of religion” guaranteed by clause (b) of the same article.\(^{54}\)

The Rajasthan High Court decided the case in favour of the plaintiffs. The High Court held that the expression “affairs of the temple” as referred to in section 16 of the impugned Act was too wide and could include religious affairs of the temple as guaranteed in article 26 (b) of the Constitution. Therefore, the Rajasthan High Court concluded that the impugned Act violated the constitutional protection given to religious denomination to manage its own affairs in matters of religion.\(^{55}\)

On appeal\(^ {56}\) the Supreme Court reversed the decision of the Rajasthan High Court and held that the expression “affairs of the temple” covered only the secular affairs of the temple and, therefore, could not be objected by law. The Supreme Court then pointed out two kinds of duties, which had been entrusted to the Board of managers: firstly, the Board had to manage the properties and secular affairs of the temple. Secondly the Board had to arrange for the religious worships, ceremonies and festivals in the temple in accordance with the customs and usages of the denomination to which the temple belonged.\(^ {57}\)

Commenting on the customs and usages associated with religious practices, which were claimed as integral part of a particular religious denomination, Mr. Justice Gajendragadkar who delivered the judgment of the Supreme Court in this case made the observation:

In deciding the question as to whether a given religious practice is an integral part of the religion or not, the test always would be whether it is regarded as such by the community following the religion or not. This formula may in some cases present difficulties in its operation. Take the case of a practice in relation to food or dress. If in a given proceeding, one section of the community claims that while performing certain rites white dress is an integral part of the religion itself, whereas another section contends that yellow dress and not the white dress is the essential part of the religion, how is the court going to decide the question? Similar disputes may arise in regard to food. In cases where evidence is produced in respect of rival contentions as to the competing religious practices the court may not be able to resolve the dispute by a blind application of the formula that the community decides which practice is an integral part of its religion, because the community may speak with more than one voice and the formula would, therefore, break down. This question will always have to be decided by the court and in doing so, the court may have to enquire whether the practice in question is religious in character and if it is, whether it can be regarded as an integral or essential part of the religion, and the finding of the court on such an issue will always depend upon the evidence adduced before it as to the conscience of the community and the tenets of its religion.\(^ {58}\)

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53 Ibid., at 1655.
55 Ibid., at 213.
57 Ibid., at 1662.
58 Ibid., at 1660-1661.
1.3.1.2.6. A Principled Approach towards Religion:

The preceding cases point out that the Supreme Court of India has held a principled approach towards religion when appealed for judicial definition of ‘religion’ and ‘matters of religion’ protected under articles 25 (1) and 26 (b) of the Constitution. As a general rule, it has maintained a liberal definition of religion - as assumed in most of the liberal democratic States - covering in its ambit belief, doctrines and moral codes, rituals and observances, ceremonies and modes of worship.\(^{59}\) However, in some cases, the Supreme Court did not hesitate to pass a strict definition of ‘matters of religion’ as protected under clause (b) of article 26 of the Constitution limiting them only to those essentials and obligatory overt acts necessary to express one’s faith.\(^{60}\) These are the instances where the Court found that certain acts of rituals though sanctioned by a particular religion, if allowed to perform would violate, on reasonable grounds, social solidarity and even cause harm to life.\(^{61}\)

In the context of a religiously plural society like India, where conflicting value systems often compete with each other, the principled approach of the Supreme Court on religious matters is to promote religious freedom that secures human dignity. Therefore, the Court may apply a liberal or a conservative approach towards religion depending on which of the two better promotes religious liberty consistent with a set of values that protect the sanctity of human life and provide a life-affirming space for all to live in dignity.

Hence, the Indian judiciary tells in unambiguous language that the Constitution recognises the importance of religion in people’s life, and that it holds religious liberty as a fundamental value of the Indian political community but not at the cost of certain substantive principles which are necessary in the society for all to lead a life worthy of human dignity.

Religion thrives in India and it remains an integral aspect of Indian ethos. Its popular practices are multifarious and often unrestrained as shown by Dr. B.R. Ambedkar during the debates in the Constituent Assembly.\(^{62}\) In this context, the principled approach founded on reason as held by the Indian Supreme Court regarding religion is an important requirement to keep religions to be authentic in their practices. Such an interpretation of religion would remind believers to shed away non-religious and, at times, even unreligious accretions added to religious practices. It would enlighten the followers of various faith traditions not to thwart the legitimate activities of the State to further the cause of human dignity.

1.3.2. The Free Exercise of Religion

The individual person’s religious freedom as guaranteed by the Constitution of India is provided in clause (1) of article 25. Some say\(^{63}\) that this part of the article seemed to have been based on the clause (1) of article 2 of the Constitution of Eire (1937).\(^{64}\) Others say\(^{65}\) that the tenor of article 25 resonates with the Karachi resolution on the fundamental right adopted by the Indian National Congress in 1931 that declared, "Every citizen shall enjoy freedom of conscience and the right freely to profess and practice his religion, subject to public order and morality."\(^{66}\) Dr. D.D. Basu\(^{67}\) commented


\(^{61}\) It is particularly true in the case of cow sacrifice on Bakr-Id day and hurting the religious sentiments of the Hindus. Ibid. at 745. See also the debate on the subject, which took place in the Constituent Assembly: CAD, vol. 7, and pp.568-581.

\(^{62}\) CAD, vol. 7, p. 781.


\(^{64}\) Article 25 (1) of the Constitution of India reads: “Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion”.

\(^{65}\) Donald E. Smith, op.cit., p. 102.


that all the rights pertaining to religion provided in article 25 of the Indian Constitution appear to be included in the expression ‘exercise’ clause of the First Amendment to the U.S. Constitution.

The religious freedom guaranteed under article 25 is not limited to the citizens of India only but also applies to “all persons” as spelt out in clause (1) of the said article. Question was raised in the Ratilal case68 whether the aliens and in particular, the foreign Christian missionaries who were exclusively engaged in propagating their religion, were also protected under clause (1) of articles 25 of the Indian Constitution. Mr. Justice Mukerjea who spoke for the Court said, “Article 25 of the Constitution guarantees to every person and not merely to the citizens of India, the freedom of conscience and the right freely to profess, practice and to propagate religion.”69 Hence in the next section, we shall discuss the different aspects of the religious freedom protected under article 25 (1).

1.3.2.1. Freedom of Conscience

The Courts have defined freedom of conscience as the freedom of a person to entertain any belief or doctrine concerning matters, which are regarded by him or her to be conducive to his or her spiritual well being.70 The wording of article 25 of the Indian Constitution, however, seems to suggest that the individual’s right to hold such belief is subject to public order, morality and health and to the other provisions of part III of the Constitution.

Under the terms of article 25, it may be asked whether the State may claim any power over an individual’s freedom of conscience. Dr. Donald E. Smith argued that the State could have no power over an individual’s freedom of conscience, and, therefore, the wording of article 25 which apparently implied State’s restriction was due to inaccurate drafting.71 It seems, nevertheless, the restrictions to which freedom of conscience may be submitted as implied in article 25 of the Constitution of India, are not resulting from such inaccuracy in drafting; rather the said article did not intent to protect freedom of conscience on religious scruples when it stands opposed to protect public welfare, because the protection guaranteed to religious freedom is at the same time subject not only to public order, morality and health but also to the other provisions of Part III of the Constitution.

Hence, in its operation, article 25 is subject to clause (2) of article 23 that is one of the articles in Part III of the Constitution. Let us look at this provision as given in article 23. This article states:

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable according to law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Clause (1) of article 23 protects individual persons against any form of forced labour or exploitation. It is designed to protect the dignity of the individuals not only against such actions of forced labour of any sort but also against perpetration of such actions by other private citizens. This clause has two declarations. The first is that traffic in human beings; beggar and other similar forms of forced labour are prohibited. The second is that any contravention of the first provision shall be an offence punishable according to law.72

Clause (2) of article 23 is an enabling provision for the State, which makes exception in favour of the State to impose compulsory service for public purposes provided that in imposing such services the State does not make any discrimination on grounds only of religion, race, caste or class or any of them.

It may be noted that conscription for military service neither amounts to traffic in human beings nor beggar nor other similar forms of forced labour violating a person’s dignity. Consequently, it

69 Ibid., at 391.
71 Donald E. Smith, op.cit., pp. 103-104.
72 V. D. Mahajan, op.cit., p. 230.
is not affected by the prohibition clause of article 23 (1). Conscription for military service is, nevertheless, a form of compulsory service imposed by the State for the security of the citizens’ life and property. Hence, it follows that on occasion, when the State deems it necessary to impose compulsory military service or other services for the protection of the people, article 25 does not protect exceptions to persons on account of religious scruples.

It may be also recalled that when the question of conscription for military service was discussed at great length in the Constituent Assembly,73 no one raised the question of granting exception from such services to conscientious objectors on religious grounds, though difference of opinion arose as to whether a conscription clause should be provided or not.74 So far no case against conscription for military service has been brought before the Courts in India.

However, in a case regarding State of Bihar v. Sir Kameshwar Singh,75 which appeared before the Supreme Court of India, the Court had the occasion to give judicial definition to the term “public purposes” as used in the Constitution. In this case, the appellant challenged the constitutional validity of compulsory acquisition of private property with due compensation by the State for “public purposes” on the ground that its objective was not for public purposes. The Court held in its interpretation that whatever furthers the general interests of the community as opposed to the particular interests of the individual must be regarded as a public purpose.76

Similarly, in the case of Somavanti v. State of Punjab,77 The Supreme Court was called upon to define the application of “public purpose.” Once again the Court in its definition of public purpose said, “Broadly speaking, the expression public purpose would, however, include a purpose in which the general interests of the community, as opposed to the particular interests of the individuals, is directly and vitally concerned.”78

When article 25 is read with article 23, the intent of the Constitution is that the State stands to provide its citizens security of life and property and to promote human welfare with the object in view for the development of people’s life befitting to a life of dignity for all. This cannot be disturbed by religious belief. Hence, the types of religious practices or beliefs or even ideologies protected under article 25 are the ones, which support some of these fundamental humanistic objectives of the Constitution.

1.3.2.2. Profession of Religion

The constitutional right to profess religion means a right to exhibit one’s religion in such overt acts as teaching, practicing and observing religious precepts and ideals in which there is no explicit intention of propagation involved. Taking out religious processions, worship in public places, putting on specific garments include within the ambit of profession of religion.79 The Constitution of India, for example, provides the wearing and carrying of kirpans80 as part of the profession of Sikh religion. The phrase ‘profess a religion’ as given in article 25 means according to the Supreme Court “to enter publicly into a religious state.”81

75 CAD, vol. 7, pp. 803-813.
74 Hansa Mehta and Amrit Kaur, who in their dissent to the inclusion of the conscription, said:
“(W)e recorded our vote against compulsory service in any form…We look upon compulsion as against all tenets of democracy and would point to the danger for giving to the State powers of compulsion in any sphere of life”. B. Shiva Rao, op.cit., vol. 2, p. 178.
Alladi Krishnaswami who in support of the conscription clause registered his opinion:
“[W]ar may be forced upon India much against her will and in sheer self-defence she might have to raise an army appropriate to the occasion…The State exists for all and for any particular class of citizens wedded to any particular creed or persuasion.” Ibid., p. 180. B. R. Ambedkar added:
“Ban on compulsory military service by a nation living in the midst of hostile nations...is nothing but willful self-immolation which is contrary to wisdom and morally quite heinous.” Ibid., p. 183.
76 Crf. V. D. Mahajan, op.cit., p. 231.
77 AIR 1963 SC 151.
78 Crf. V.D. Mahajan, op.cit., p. 251.
79 P.C. Jain, op.cit., p. 177.
80 “The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion”. Article 25 (b), Explanation - I, The Constitution of India. Kirpan is a sword, one of the five emblems, which an orthodox Sikh must wear.
In the Quareshi case, the appellants contended that sacrificing a cow on Bakr-Id day amounted to profession and practice of Islam, which is protected by article 25 of the Constitution. Tracing the history of the custom of offering sacrifice of a cow on the Bakr-Id day, the Supreme Court ruled, “We have, however, no material on the record before us, which will enable us to say... that the sacrifice of a cow on that day is an obligatory overt act for a Mussalman to exhibit his religious belief and idea.”

The right to take out religious processions and to have religious gatherings in the public places fall under the right to profess religion as guaranteed in article 25 (1). The exercise of this right is, however, subject to public order and morality. The police authorities, for instance, have been empowered to regulate such overt acts of religious profession. Section 30 (1) of the police Act authorizes the police to regulate assemblies and processions and to prescribe the routes and timings for such purposes. Under section 144 of the Code of Criminal procedure, a magistrate can ban processions and meetings altogether where there is an apprehension of breach of peace. Such orders are done during the times of communal tension that is endemic in some parts of the country.

On some occasions of communal and public disturbances, the prohibitive orders can also include banning the use of loudspeakers and such electronic devices employed in religious profession and practice. For instance, the Commissioner of Police in Calcutta prohibited the use of loudspeakers for prayer in Mosques located in some residential areas in the city. On challenge, his ban order was held constitutional. The right to profess one’s religion includes also the right to use all lawful means required for such acts provided they don’t destroy public peace and order. The protection given under article 25 (1), however, does not divest the citizens from their duty to co-operate with the State to maintain public order so that people may live their ordinary life in dignity.

The freedom to practice religion is protected under article 25 (1) of the Indian Constitution. In the year 1952, the first case of this sort seeking protection under this constitutional right as guaranteed in clause (1) of article 25 appeared before the High Court of Bombay.

The case arose out of the Bombay Prevention of Hindu Bigamous Marriage Act, passed by the State of Bombay. The Act prevented bigamy among Hindus alone who resided in that State while the Muslim community that practiced polygamy was left out of the operation of the said Act. Therefore, Sri Narasu Appa Mali appealed before the High Court of Bombay, because the Act infringed the plaintiff’s religious freedom. The aggrieved plaintiff alleged that by enacting the Bombay Prevention of Hindu Bigamous Marriage Act of 1946, the State of Bombay discriminated between Hindus and Muslims residing in that State on the basis of religious practice and, therefore, pleaded that the enactment was void.

The Court upheld the impugned Act constitutionally valid. Mr. M.C. Chagla, the Chief Justice of the Bombay High Court, who gave the judgment of the Court in this case, indicated that the freedom to practice religion as provided under article 25(1) was not absolute, in the sense that if religious practices contravened to public order or to a policy of social welfare, then the said practices could not claim State protection. He also opined, “a sharp distinction must be drawn between religious faith and belief and religious practices. What the State protects is religious faith and belief.”

Subsequent to the Narasu Appa Mali case, many cases came before the Supreme Court of India for constitutional protection to “religion” and “matters of religion” as guaranteed in articles 25 (1) and 26 (b) respectively against certain state statutes. In these cases, the Supreme Court had the occasion to deal with the question...
of “freedom of practice of religion” protected under article 25 (1).

First among them was the Sri Lakshmindra case. The matter under dispute in the instant case was on the rights of the head of a religious institution in the management of the affairs of religious denominations in “matters of religion” given under article 26 (b) of the Constitution. In giving its judgment, the Supreme Court studied in great detail freedom of religious practice as protected under article 25 (1) of the Indian Constitution in comparison with similar cases brought before the Courts in the United States of America and Australia. The Supreme Court of India observed that the “practice of religion” as given in article 25 (1) and “matters of religion” as given in article 26 (b) of the Indian Constitution have the same scope.

Mr. Justice Mukerjea who spoke for the unanimous opinion of the Supreme Court said, “The guarantee under our Constitution not only protects the freedom of religious opinion but it protects also acts done in pursuance of a religion and this is made clear by the use of the expression ‘practice of religion’ in Art.25.” He further observed that the freedom of religion in article 25 included not only the “freedom to entertain such religious belief, as may be approved of by his judgment and conscience, but also to exhibit his belief in such outward acts as he thinks proper.”

In some of the latter cases of this sort, the Supreme Court’s ruling seemed to have been rather strict regarding the practice of religion protected under article 25 (1) of the Constitution. For instance, Mr. Justice Mukerjea who once again delivered the judgment of the Supreme Court in the Ratilal case said:

Thus, subject to the restrictions which this Article imposes, every person has a fundamental right under our Constitution not merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sanctioned by his religion and further to propagate his religious views for the edification of others.

So, we notice that the space granted for the protection of religious practice is getting restricted. In Sri Lakshmindra case the court decided that a person had his religious freedom protected in those overt acts of his belief which he thought proper; and it was not required that such overt acts should be enjoined or sanctioned by one’s religion. On the contrary, in the Ratilal case the court held that such overt actions must be enjoined or sanctioned by one’s religion.

In the Qureshi case the Supreme Court further held that the religious practice under question should not only be “enjoined or sanctioned” by one’s religion but it must also be an “obligatory overt act” of the concerned religion to exhibit its tenet. As seen earlier, in this case the appellants pleaded for the sacrifice of a cow on Bakr-Id day. After going through the Islamic custom of animal sacrifice on Bakr-Id day and the tradition maintained by Muslim rulers in India, the Supreme Court observed that cow sacrifice was sanctioned by Islam but it was not an obligatory overt act to express Islamic faith and, therefore, it would not be protected under practice of religion as given in clause (1) of article 25.

93 Ibid., at 289.
94 Ibid., at 289.
the criterion adduced to the practice of religion, which might claim State protection. In giving the judgment of the Court Dr. P. B. Gajendragadkar observed:

[I]n order that the practices in question should be treated as a part of religion they must be regarded by the said religion as its essential and integral part; otherwise purely secular practices which are not an essential or an integral part of religion are apt to be clothed with a religious form and may make a claim for being treated as religious practices within the meaning of Art.26. Similarly even practices though religious may have sprung from merely superstitious beliefs and unessential accretions to religion itself.104

According to the criterion set by the Supreme Court an act is a religious practice, which deserves protection under clause (1) of article 25 of the Constitution of India, in so far as it is held by a particular religion as essential and integral part of its tenet. This criterion was proposed by the Court with the objective of saving true religious practices from non-religious accretions and even superstitions. By 1963, the Courts in India have followed this approach in dealing with matters related to the practice of religion, which is protected under right to religious freedom. The test is that a particular religious community must regard it as something essential of its religious tenet. In the case of counter claims by competing individuals or groups on this matter, the court is the proper forum to resolve it. This was brought out in the Tilkayat case.105

The approach pursued by the Courts in India towards matters pertaining to the practice of religion has come under severe criticism from Constitution experts. Dr. P.C. Jain has suggested106 that in the matter of doubtful religious practices, the Courts in India should accept the contention of a believer who claims before the Court that certain practice has religious significance to the plaintiff instead of restoring to judicial prove into plaintiff’s claim so as to see whether it is an essential and an integral part of a religion, and in some other instances to ascertain whether it is an obligatory overt act of a religious tenet.

Similarly, it has been observed by Dr. B.P. Parameshwara Rao that in the matters of intra-denominational disputes, the courts should recognise the faith-claims of a rival group because it is difficult and at times even impossible to prove religious beliefs held by people.107 Dr. V.P. Luthera expressed his opinion that a secular State has no authority to interfere with or to regulate matters internal to religion.108

1.3.2.4. Freedom to Propagate Religion

Unlike the Constitutions of many countries, article 25 of the Indian Constitution specifically provides the right to propagate religion.109 However, the original draft of this article did not mention it explicitly that reads:

All citizens are equally entitled to freedom of conscience and to the right freely to profess and practice religion in a manner compatible with public order, morality or health:

“Provided that the economic, financial or political activities associated with religious worship shall not be deemed to be included in the right to profess or practice religion.110

The insistence from the Christian minority seemed to have largely contributed to the specific inclusion of this right. The joint Committee of the Catholic Union of India and the All India Council of Indian Christians passed a resolution in October 1945, which stated: B. P. In the future Constitution of India, the free prop.
practice and propagation of religion should be guaranteed, and the change of religion should not involve any civil or political disability.”

Clause (13) of the Interim Report on Fundamental Rights submitted to the Constituent Assembly in April 1947 included the right to propagate. Nevertheless, clause (17) of the Report stated, “conversion from one religion to another brought about by coercion or undue influence shall not be recognized by law”. When clause (17) was debated on the floor of the Constituent Assembly, Mr. K.M. Munshi who composed the text, proposed a new amendment to the clause during the debate which read, “Any conversion from one religion to another of any person brought by fraud, coercion or undue influence or of a minor under the age of eighteen shall not be recognized by law.”

The Christian members of the Assembly opposed Mr. K.M. Munshi’s amendment proposal, because they voiced that it would nullify in large measure the freedom of religion guaranteed under clause (13). Dr. B.R. Ambedkar, the Chairman of the Constituent Assembly, also strongly opposed Mr. K.M. Munshi’s amendment proposal. The reluctance shown by some members of the Constituent Assembly for the inclusion of the clause on the right to propagate religion was conditioned by their fear that this right would help Christian missionaries to convert Hindus and others to Christianity.

Some other Hindu members of the Constituent Assembly, however, emphasised India’s spiritual heritage, which is inclusive and open to all faiths. Therefore, they had no misgiving to include the right to propagation under religious freedom. In his advocacy for the inclusion of propagation clause under religious freedom, Pundit Lakshmikanda Maitra, referred to the sayings of Swami Vivekananda and said:

The great Swami Vivekananda used to say that India is respected and revered all over the world because of her rich spiritual heritage…If we are to educate the world, if we are to remove the doubts and misconceptions and the colossal ignorance that prevails in the world about India’s culture and heritage, this right must be inherent, - the right to profess and propagate her religious faith must be conceded.

The Constitution when finally adopted, accepted only the positive statements related to religious freedom as we have it in article 25 of the Constitution.

Article 25 provides to all persons the right to propagate religion and article 26, which guarantees collective freedom of religion to denominations, or any section thereof, does not explicitly refer to the right for propagation. In the Sri Lakshmindra case, the Supreme Court held that the heads of religious institutions had liberty to propagate their respective religious tenets because institutions acted only through human agencies. Similarly, in the Ratilal case, the Court said that the right to propagate religion applied to a person in one’s individual capacity as well as on behalf of an institution.

The right to propagate religion means the right to communicate one’s religious tenets to others by way of preaching, teaching and writing with the explicit intention of convincing others about the goodness of one’s religion. As propagation implies convincing others to one’s point of view, it may involve underestimating others’ religion. This may produce religious ill feeling and may lead to violence, which may place the maintenance of public order and safety at

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111 N.C.C. Review, vol. 66 (1946), p. 3. The general Hindu attitude towards Propagation and conversion to Christianity by missionaries has been a matter of debate for a very long time. At times, it has created communal tension between Christians and Hindu fundamentalists. For detail see Donald E. Smith, op.cit., pp. 162-192.
113 Ibid., p. 428.
114 Ibid., p. 480.
115 Ibid., pp. 818, ff.
116 Ibid., vol. 7, p. 832.
118 Ibid., at 289.
120 Ibid., at 391.
stake. Hence, the task of the State is to maintain a balance between the right to propagate religion and the right of the public for order and security of life. Article 25 of the Constitution, therefore, grants freedom to propagate religion “subject to public order.”

If propagation is done in any form to outrage the religious feelings of any section of the public, the same may be penalized. Section 295 A of the Indian Penal Code, for example, punishes deliberate and malicious acts intended to outrage the religious feelings of any class of persons. In the case of Ramji Lal Modi v. The State of Uttar Pradesh, the petitioner who was the editor, printer and publisher of Gaurakshak, a monthly journal devoted for the protection of cows, published an article, which the Supreme Court found deliberate and malicious in intent to outrage the religious sentiments of the Muslims. Under section 295 A of the Indian Penal Code he was fined and sentenced to imprisonment. Upon appeal to the Supreme Court, he challenged the constitutionality of the said section under article 19(1) (a) of the Constitution, which guarantees the right to freedom of speech.

Rejecting the petitioner’s contention, the Supreme Court held that clause (2) of article 19 of the constitution at the same time empowered the State to impose reasonable restrictions “in the interest of” and not only “maintenance of” public order and, therefore, the intent of clause (2) of article 19 covered section 295 A of the Indian Penal Code. In its judgment in the instant case, the Supreme Court emphasized:

> [T]he expression “in the interest of” makes the ambit of the protection very wide. A law may not have been designed to

121 “Whoever, with deliberate and malicious intentions of outraging the religious feelings of any class of citizens of India, by word either spoken or written, by signs or by visible representations or otherwise insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both”.

Section 295 A, the Indian Penal Code as amended by the Indian Penal Code (Amendment) Act, 1961 (Act 41 of 1961).

122 AIR 1957 SC 620.

123 Ibid., at 622.

124 Ibid., at 623.

125 AIR 1957 SC 620.

These above observations enable us to conclude that the religious freedom protected under article 25 of the Constitution includes the right to propagate one’s religion by way of preaching, teaching and writing with the explicit objective of convincing others about the goodness of one’s religion that may lead to conversion.

However, incidents of competing claims of religions may cause religious ill feeling and social unrest, which may jeopardize the life of ordinary people to live in dignity. As the Supreme Court of India ruled in Ramji Lal Modi v. State of Uttar Pradesh, if religious propagation is done in any way with deliberate intention to outrage the religious feeling of others, the same can be penalized within the protection of clause (2) of article 19. Any act perpetrated with the intention of outraging the religious feelings of the people is an attack on their dignity in their self-identity because religious convictions are deep-seated values constitutive of one’s self-identity. By protecting the people against such religious outrage, the State honours human dignity, which is one of the primary objectives of the secular State, as referred to in the Preamble of the Constitution of India.

1.3.2.5. An Indigenous Approach to Religious Freedom

The foregoing case studies regarding the free exercise of religion provide us the reason to conclude that the Constitution of India guarantees religious freedom, which is indigenous to Indian religious ethos and to its socio-cultural context so as to satisfy the multi-religious tradition of the country. Article 25 of the Constitution guarantees freedom of conscience. However, clause (2) of article
23 does not oblige exemption to conscientious objectors on religious scruples from compulsory service of the State when services of this sort are necessary for public welfare and for the security of the country.\textsuperscript{126}

As interpreted by the Courts, article 25 (1) protects religious practices that are essential or integral to a religion. Owing to the delicate communal situation, which is endemic in some parts of the country, these practices are, however, subject to overriding regulatory process of the State under sub-clause (a) of clause (2) of article 25 that saves any State statutes to regulate and restrict secular transactions and activities associated with religious practices.\textsuperscript{127} Although religious practices protected under the provision of clause (1) of article 25 are free from State regulation unless detrimental to public order, morality, health and the fundamental rights guaranteed under Part III of the Constitution, nevertheless these practices cannot be protected if they contravene social welfare and reform measures initiated by the State as provided under sub-clause (b) of clause (2) of the same article.\textsuperscript{128}

This dialectical process of freedom and regulatory measures amounting to the State’s non-intervention and intervention associated with the practice of religion brings out clearly the fundamental dynamics of the philosophy of Indian secularism as enshrined in the secular provisions of the Constitution. It means that the Constitution is committed to protect values that enhance the flourishing of human life in dignity. Therefore, the free exercise of religion cannot supersede these objectives of the nation reposed in the Constitution.

1.3.3. The Exercise of Religion Subject to State Restriction

The Constitutions of the democratic States guarantee freedom of conscience and the right to manifest one’s religious beliefs in overt ways. But this freedom is to be ensured in a balanced manner so as not to endanger the security and well being of the society, the maintenance of which is the prerogative of the State for the proper growth and progress of the people. Hence, Constitutions provide also the power to regulate and even to restrict this freedom. The manner and various reasons under which religious freedom comes under State restriction in India will be discussed in the proceeding sections.

1.3.3.1. Subject to Law

Article 25 (1) of the Constitution of India guarantees the individual’s right to freedom of religion.\textsuperscript{129} The exercise of this freedom, however, is made explicitly subject to public order, morality, and health and to the other provisions of Part III of the Constitution, which lay down the fundamental rights. Exercise of religion means the performance of acts in pursuance of one’s religious tenet.

In India the limitations laid on the exercise of religious freedom is really very emphatic. The Constitution of India does not presume that beliefs that are religious deserve absolute protection. Clause (1) of Article 25, therefore, begins with a number of safeguards. The right to religious freedom may be exercised only under these conditions. These are substantial conditions. Commenting on the provision protecting religious freedom under article 25 of the Constitution, Shri K. Santhanam remarked in the Constituent Assembly:

“Hitherto it was thought in this country that anything in the name of religion must have the right to unrestricted practice

\textsuperscript{126} “Nothing in this article shall prevent the State from imposing compulsory service for the public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, Caste or class or any of them.” Article 23 (2) of the Constitution of India.

\textsuperscript{127} “Nothing in this article shall affect the operation of any existing law or prevent the State from making any law –
(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.” Article 25 (2) (a) of the Constitution of India.

\textsuperscript{128} “Nothing in this article shall affect the operation of any existing law or prevent the State from making any law –
(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all casts and sections of Hindus.” Article 25 (2) (b) of the Constitution o India.

\textsuperscript{129} “Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.” Article 25 (1), Constitution of India.
and propagation. But we are now in the new Constitution restricting the right only to that right which is consistent with public order, morality and health”.

The Courts in India on various occasions interpreted the scope of freedom guaranteed to religion that reflects the mind of the framers of the Constitution. The Bombay High Court held in one of the cases that article 25 provided to all persons the right to freedom of religion. But the Court reiterated that this “right is not an absolute or unlimited right. In the first place, it is subject to public order, morality and health. In the second place, it is subject to other provisions of Part III”.

In another case, the Supreme Court of India ruled that article 25 of the Constitution guaranteed to every person freedom of religion. But the Court emphasised:

This is subject, in every case, to public order, health and morality…Subject to the restrictions which this article imposes, every person has a fundamental right under our Constitution…to entertain such religious beliefs as may be approved by his judgement or conscience.

Similarly, the Calcutta High Court in interpreting the scope and limitations laid on the free exercise of religion as provided in clause (1) of article 25 held that this provision did not give, for example, a Hindu student the right to perform the ceremonies of his religion in the compound of a Christian college. Therefore, under article 25(1) of the Indian Constitution, every person is entitled to have the right to free exercise of religion. But this right is at the same time subject to State law in order to safeguard the security and welfare of all in the society as well as the individual because protection of human persons in their dignity is the concern of the Constitution of India.

### 1.3.3.2. Subject to Public Order and Morality

In India the State has imposed extensive regulations on the exercise of religion in the interest of public peace and order. There are three reasons arising from the peculiar nature of religious practices in the country that call for these measures. First of all both Hinduism and Islam which have the largest number of followers in the country lack centralised organisation and authority necessary to provide for the orderly conduct of religious practices in the public space. Secondly most religions in India place great importance to public display of religious celebrations in the form of festivals and processions spread over many days. Thirdly India being a multi-religious country, various religious communities having diametrically opposed belief systems and practices live side by side all over the country. Hence, it is not possible to permit them all to exercise their different religious beliefs to the fullest possible measure.

Hence, the State has enacted statutory restrictions to prevent breaches of peace and to protect people from possible violence arising from religious excitements associated with practice of religion in the public places. Thus Chapter XV of the Indian Penal Code declares certain religious acts are offensive if they tend to create breach of peace. It is surprising to note that the authors of the Code who composed it in 1860 commented, “(T)here is perhaps no country in which the government has so much to apprehend from religious excitement among the people.”

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130 CAD, vol. 7, p. 834.
132 Ibid., at 87.
134 Ibid., at 391.
135 Sanjib Kumar v. St. Paul's College, AIR 1957 Cal, 524. It may be noted that the Indian judicial opinion on the limitations imposed on the right to free exercise of religion is similar to the view held by the U.S. Supreme Court. The U.S. Supreme Court held that the “free exercise of religion guaranteed in the First Amendment had to be to ‘subject to regulation for the protection of society.’” (Cantwell v. Connecticut, 310 US 296, at 304). As quoted in V.P. Luthera, op.cit., p. 114.
136 For certain details of these celebrations and their consequences on law and order see Donald E. Smith, op.cit., pp. 220-221.
137 Indian Penal Code 1860 (Act 45 of 1860).
Sections 295 to 298 of the Indian penal Code\textsuperscript{139} are more intended for keeping peace and protection of people against violence than for the protection of religion as such. These sections deal with cases where a person performs an act whereby the religious feelings of any class of citizen are wounded. Section 295 A specially limits the religious freedom of propagation by making it an offence to outrage the religious feelings of any class of citizens by acts incompatible with a civilised way of behaviour. The said section reads:

Whoever, with deliberate and malicious intentions of outraging the religious feelings of any class of citizens of India, by word either spoken or written, by signs or by visible representations or otherwise insults or attempts to insult the religion or the religious belief of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or with both.\textsuperscript{140}

In the case of Public Prosecutor v. P. Ramaswamy,\textsuperscript{141} the Madras High Court had to deal with a case of this sort. In this case the respondent, Mr. P. Ramaswamy published certain articles with malicious purpose of outraging the religious sentiments of the Muslims. The author criticised various injunctions of the Quran. He was critical of the punishment sanctioned by the Quran, such as the stoning to death of persons who were found guilty of adultery which, according to him, was inconsistent with the provisions for divorce, remarriage and allowing a person to have as many as four wives. He also questioned the punishment of cutting off hands for theft as sanctioned by the Quran. The author concluded in his article that these provisions of Quran indicated that Allah was a fool and “a foolish and barbarous person like Allah has no place in this world”.\textsuperscript{142} The Madras High Court found the respondent of the instant case guilty of section 295 A. In giving its verdict, the Court declared:

\textbf{[T]he Courts have to be circumspect and pay due regard to the feelings and religious emotions of different classes of persons with different beliefs, irrespective of the consideration whether or not they shared those belief or whether those beliefs were rational or not in the opinion of the Court.}\textsuperscript{143}

Under section 153 A of the Indian Penal Code,\textsuperscript{144} it has been declared a crime to promote, on grounds of religion, race, language, caste or community, enmity between different religious, racial or language groups. This section holds an act as a criminal offence if it is detrimental to the maintenance of harmony between different religious groups or is likely to disturb public tranquillity. The same is the object of section 34 of the Police Act\textsuperscript{145} that prohibits the slaughter of cattle or indecent exposure of one’s person on any road, thoroughfare or other public place. Consequently, although the Islamic law sanctions cow sacrifice on \textit{Bakr-Id} day, nevertheless, not to outrage the religious sentiments of the vast majority of the Hindus, the Supreme Court can provide alternative or regulatory measures as ruled in the Quareshi case.\textsuperscript{146}

In an Ananda Marg case,\textsuperscript{147} the Supreme Court held valid the order issued by the Calcutta Police Commissioner under section 144 of the Code of Criminal Procedure,\textsuperscript{148} which prohibited the ‘\textit{Thandava} dance’\textsuperscript{149} in public places. The Court asserted that carrying lethal weapons like daggers, and carrying human skulls makes it an offence.

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\textsuperscript{139} Indian Penal Code 1860 (Act 45 of 1860).

\textsuperscript{140} Section 295 A of the Indian Penal Code as amended by the Indian Penal Code (Amendment) Act, 1961 (Act 41 of 1961).

\textsuperscript{141} AIR 1964 Mad. 258.

\textsuperscript{142} Ibid., at 258-259.

\textsuperscript{143} Ibid., at 259.

\textsuperscript{144} Section 153 A of the Indian Penal Code as amended by the Indian Penal Code (Amendment) Act, 1961 (Act 41 of 1961).

\textsuperscript{145} Section 34 of the Police Act, 1861 (Act 5 of 1861).

\textsuperscript{146} Mohammad Hanif Quareshi v. State of Bihar, AIR 1958 SC 731, at 740. For the details of the case see above section 4.4.2.

\textsuperscript{147} Acharya Jagadiswaranda Avadhuta v. Commissioner of Police Calcutta, AIR 1984 SC 51. Ananda Marg is a Hindu religious sect.

\textsuperscript{148} Section 144 of the Code of Criminal Procedure, 1890 (Act 5 of 1890). Section 144 empowers certain magistrates to direct any person to abstain from any act to prevent a disturbance of the public tranquillity, a riot or an affray.

\textsuperscript{149} \textit{Thandava} dance is a religious cult performance practised by the Ananda Marg sect. The use of lethal weapons and human skulls are part of the cult dance.
posed danger to public order and morality and, therefore, the Police Commissioner’s order to ban Thandava dance from the public places was valid.

The Courts in India have been often faced with cases challenging the constitutional propriety of banning processions in some religiously sensitive areas. In a case that arose from the State of Orissa, the Supreme Court was appealed to settle a long-standing dispute between a section of Hindus and Muslims in that State. The History of the instant case was that the leaders of Hindus and Muslims of some villages in Orissa entered into an agreement in 1931 about the manner of taking religious processions. According this agreement, the Hindus should not play music near a mosque in order to enable the Muslims to hold their prayers in a calm atmosphere. In 1964 the Hindus filed a case before the Orissa High Court claiming that they were not bound by the 1931 agreement and that they were entitled to play music in religious and non-religious processions on the high way. The Orissa High Court rejected the petitioners’ claim. On appeal, the Supreme Court upheld the verdict of the Orissa High Court and asserted that the restrictions on playing music and beating drums by the Hindus near the mosque were not justified.

As provided in article 25 (1) of the Indian Constitution, while the State protects the individual’s right to free exercise of religion, the State is also duty bound to safeguard public order and morality because the State’s coercive power is for the purposes of maintenance of law and order necessary to promote conditions fitting for the development of the people that is worthy of human dignity.

In this connection, one of the practices associated with religion, which came under the purview of the State in India, was the system of devadasi dedication. Many Hindu temples, particularly in South India, had the tradition of dedicating young girls to the deities as devadasis (literally, servants of God). The devadasis danced and sang before the deities in the temples and in religious processions.

It was also a belief prevalent among some sections of the Hindus that spiritual merit was gained by such dedication. The dedication ceremony was done by the performance of a spiritual marriage of the girl with the deity of the temple. Although religious in origin, in time it degenerated to such an extent that most of the devadasis became either temple prostitutes or took to prostitution.

As early as a century ago prominent members of the Hindu community in South India condemned the practice of devadasi dedication on account of immorality and promiscuity spread through the system. They also made it known that the practice of devadasi dedication was not an essential part of the worship in the temples. In 1924, the amended Section 372 of the Indian Penal Code declared that any person dedicating a girl for devadasi was liable to punishment. With the enactment of Madras Devadasi (Prevention of dedication) Act, 1947, the prohibition of the devadasi practice in any form was legally enforced in South India.

In addition, The Suppression of Immoral Traffic in women and Girls Act declared prostitution illegal if it is practiced within 200 yards of any place of public worship. The Act also makes it an offence to procure, induce or take women for prostitution. In the case that came before the Supreme Court of India from the State of Uttar Pradesh, the constitutional validity of the Act was challenged.

153 “Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose shall be punished” Section 372 of the Indian Criminal Law (Amendment) Act, 1924 (Act 18 of 1924).
154 Section 3 (3) of the Madras Devadasi (Prevention of dedication) Act, 1947 (Madras Act 31 of 1947).
was challenged on the ground that the terms of the Act amounted to a restriction on the trade of prostitution. But the Court held valid the restrictions involved in the said Act, because it was a reasonable control in the interest of public morality to stem the evil of prostitution practised in some localities. The above considered statutes and Court observations indicate that whenever the State prohibits immoral practices, religion must give way to such actions, because under the secular provisions of the Constitution of India, the State is vested with power to uphold good values, on reasonable grounds, in the interest of common good.

1.3.3.3. Subject to Public Health

It is the duty of a welfare State to provide legal safeguards to protect individual’s life and to maintain good health of the community. However, this life-saving objective of the State may run counter to certain religious beliefs and practices. According to the Penal Code of India, suicide is a crime that applies to the person who attempts it and those who support or assist to commit it. Similarly death by starvation or by self-inflicted torture to attain spiritual ends is also an offence under the same Code. The law, therefore, forbids suicide even if the act is motivated by religious intention.

Consequently, the practice of sati, for instance, though a part of Hindu religious belief and practised by some sections of Hindus in some parts of India, was made a criminal offence by the law. In a case on sati brought before the Rajasthan High Court, the Sessions Judge issued a lenient sentence of six months rigorous imprisonment to all those who were found guilty of abetting sati on the ground that the people of that particular locality where sati was committed believed it to be their religious duty to induce the act. But Chief Justice Mr. Wanchoo of the Rajasthan High Court, who spoke for the Court in the instant case remarked:

“The reasons he (the Sessions Judge) has given for this ridiculously lenient sentence are rather strange in the middle of the 20th century. He is still not sure whether the people are wrong or right in their adoration of Sati…He seems to sympathise with the view of the people that it is their religious duty to help a woman who wants to become a Sati.”

The Rajasthan High Court, therefore, disapproved the term of six months rigorous imprisonment as lenient and extended it to five years of rigorous imprisonment so that people may realize the criminality of sati abetment and that they might in no manner induce or help a woman to commit sati.

Maintenance of good health of the public requires on the part of the State to take measures to prevent infectious diseases. Religious beliefs cannot contravene State regulation on this matter. Sections 269 and 270 of the Indian Penal Code, for example, empower the State to take punitive action against a person who is likely to spread such infections unlawfully and negligently. Similarly, the Epidemic Diseases Act provides rules for enacting special measures to control epidemic diseases.

In a case filed in the Orissa High Court, the petitioner was
convicted on the ground that he refused to get himself inoculated against cholera in violation of a State measure under the Epidemic Diseases Act. The petitioner pleaded that he had “conscientious objection” against inoculation. He, moreover, contended that he had taken homeopathic medicine against cholera attack. The Court rejected his contention and ruled that since the petitioner could not prove that taking homeopathic medicine was similar to inoculation he could be convicted for his refusal to comply with the State order. These afore seen judicial decisions and State statutes re-enforce one thing in a significant way, namely that the free exercise of religion cannot contravene the constitutional objectives to protect institutions and values intended to promote human well being in defence of human dignity.

1.3.3.4. Subject to Fundamental Rights

Clause (1) of article 25 of the Indian constitution declares that the exercise of religious freedom is subject to other fundamental rights guaranteed in part III of the Constitution. This requires a balancing of rights in the area of religion with other rights. A constitutional question to this effect arose for the first time in 1958 in the case of Sri Venkatarama Devaru v. State of Mysore. The facts of this case were as follows. The case arose out of the Madras Temple Entry Authorization Act passed by the Madras Legislature in 1947 and amended in 1949. The Preamble to the Act declared that the Act aimed at the removal of disabilities imposed by custom or usage on certain classes of Hindus with regard to entry into the Hindu temples in the Madras Province, which were otherwise open to the general Hindu public. Section 3 of the Act authorized persons belonging to certain ‘excluded classes’ to enter any Hindu temple and offer worship in the same manner and to the same extent as Hindus in general. A ‘temple’ was defined as ‘a place, which is dedicated to or for the benefit of the Hindu community or any section thereof as a place of public religious worship’.

The trustees of Sri Venkataramana Temple, apprehending the application of the Act to their temple, sent a memorandum to the Madras Government claiming that their temple was a ‘private temple’, which exclusively belonged to a Hindu sect called the Gowda Saraswath Brahmins. Consequently, their temples were not within the scope of the Act. The Government of Madras rejected the petitioners’ claim. Thereupon the petitioners filed a suit before the Supreme Court under Article 26 (b) that guaranteed to a religious denomination the right to manage its own affairs in “matters of religion”. The petitioners pleaded that according to scriptural authority, the caste of the prospective worshippers was a relevant part of ‘matters of religion’ and, therefore, the enforcement of the Madras Temple Entry Authorisation Act to throw open their denominational temple to general public was violative of article 26 (b) of the Constitution. The petitioners also pleaded that since article 25(1) was subject to other fundamental rights guaranteed in Part III of the Constitution, the provision given in Article 25 (2) (b) was also subject to article 26 (b).

In delivering the judgment in the instant case the Supreme Court held section 3 of the Madras Temple Entry Authorisation Act intra vires of the Constitution. The Supreme Court observed, “the validity of section 3 of the Madras Act V of 1947 does not depend on its own force but on article 25 (2) (b) of the Constitution...and therefore, the trustees can succeed only by establishing that article

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167 Ibid., at 217.
168 “(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law -
(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
(b) 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 25, the Constitution of India.
169 AIR 1958 SC 255.
171 This class of people were known as ‘the untouchables’ or Harijans or the Dalits.
25 (2) (b) itself is inoperative as against article 26 (b)\textsuperscript{173}. The court then commented that there were two provisions in the Constitution, article 25 (2) (b) and article 26 (b). These were of “equal authority, neither of them being subject to the other.”\textsuperscript{174} Consequently, the rule of harmonious construction had to be applied when interpreting them. Mr. Justice Aiyar who delivered the judgment of the Supreme Court said:

The limitation “subject to the other provisions of this part” occurs only in cl. (1) of Article 25 and not in cl. (2). Clause (1) declares the rights of all persons to freedom of conscience and the right freely to profess, practice, and propagate religion. It is this right that is subject to the other provisions in the Fundamental Rights Chapter. One of the provisions to which the right declared in Art. 25 (1) is subject to Art.25 (2). A law, therefore, which falls within Art. 25 (2) (b) will control the right conferred by Art. 25 (1), and the limitation in Art. 25 (1) does not apply to that law.\textsuperscript{175}

According to the judgement of the Court, clause (2) of article 25 supersedes clause (1) of the same article. Therefore, the petitioners’ right to free exercise of religion is subject to the right conferred to every Hindu to enter any Hindu temple of public character. The provisions given in article 26 (b), the Supreme Court observed, were to be read in the light of the limitations contained in sub-clause (b) of clause (2) of article 25.

1.3.3.5. Religious Freedom in Consonance with Human Dignity

The preceding observations show us that the State in India has wide powers to restrict religious freedom for the purposes of public order, morality and health and to secure fundamental rights of the people as guaranteed by the Constitution. Most of the religions practised in India lack the centralised organization and authority necessary to supervise the vast expanse of activities associated with religion. This peculiar nature of religions in India has necessitated the State to enact several statutory laws to regulate religious freedom. Moreover, the strained relationship between some religious communities in some parts of the country, flare up into communal riots and even lead to bloodshed.\textsuperscript{176} All this creates life-situations of insecurity to citizens if the State failed to arm itself with necessary legal measures to regulate religious freedom.

It is also the duty of the State to provide opportunity for an integrated development of the people by maintaining the moral standards in accord with reason as demanded by human nature and by ensuring proper physical health conditions necessary for the people to organise their life in a way worthy of human dignity. Therefore, constitutional measures to uphold these values and norms are fully justified even though they may infringe on or even supersede certain religious practices, beliefs and prejudices.

The framers of the Constitution envisaged a specific model of secular State founded on the liberal democratic values as well as India’s culture of religious pluralism. This secular model of the State embedded in the Constitution contains a healthy dialectic between faith and reason. Hence, in the prevailing religious context of the country, the framers of the Constitution felt the need to enact constitutional safeguards for the advancement of society and every individual person based on the dignity of the human person as a moral subject by placing the individual persons before and above religious scruples and customs.

This constitutional framework has been explicitly brought out in the manner in which the right to freedom of conscience is placed prior to that of religious freedom \textit{per se} as contained in clause (1)

of article 25 of the Constitution, which declared, “[A]ll persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.” The constitutional emphasis ingrained in article 25 (1) is that religion is placed at the service of human person in his / her capacity for free, conscious and responsible action to decide one’s own destiny. Every one is free to choose a religion of one’s own choice or reject them all, according to one’s free choice. Equally emphatic in clause (1) of article 25 is the protection given to the right to religious freedom, which explicitly means freedom to profess, practice and propagate religion of one’s choice. 177

However, just as any other fundamental right, religious freedom is also not absolute. As Dr. P. B. Gajendragadkar reiterates, 178 fundamental rights are legally enforceable rights under a liberal democratic political system because these rights govern the legal bond that exists between the State and the citizens. Consequently, the State’s supreme duty is to enforce them through constitutional means. The purpose is to prevent people from committing the evil of violating the dignity of the person as a moral subject just as the State itself is interdicted by the Constitution from doing the same.

Hence, when religious practices come into conflict with other fundamental rights protected under Part III of the Constitution, preference must be given to the latter because religious practices should be in harmony with certain substantive values that are affirmative of human dignity. Therefore, the free exercise of religion cannot contravene human welfare and progress, which are the conditions necessary for people to grow in dignity.

1.3.4. The State’s Assistance to Religion

The activities of a welfare State are to be ordered in a manner conducive to provide proper facilities for the integrated development of its citizens including their religious needs. The secular provisions of the Indian Constitution recognise the importance of religion in people’s lives, though may not be applicable to all. 179 If religion is an important factor in the welfare of the people, it must be assisted through constitutional means.

The peculiar nature of religions in India, moreover, calls for various types of State support to religion. Unlike the ecclesiastical institutions, most of the religions in India require administrative and organisational systems capable of taking care of the enormous amount of wealth and landed property they possess. These are given to them from ancient time onwards by way of endowment for religious, charitable and educational purposes in perpetuity. Under these circumstances, the State in India has assumed great responsibility for the proper administration of such religious institutions within the constitutional rights to religious freedom guaranteed to them. 180

It has to be noted, at the same time, that India has neither State religion nor it gives any constitutional recognition to Hinduism as the religion of the majority of the citizens. There is also no Ecclesiastical Department in the Union Government as existed during the British Raj. Hence, we will examine the various kinds of assistance the State in India provides to religion while being secular. This would enable us to see another important dimension of the political philosophy of Indian secularism, which stands committed to integral humanism affirming the dignity of human persons in their individual self-identities and their plural community identities.

1.3.4.1. Religion and Taxation

The financial requirements of a welfare State are met by way of taxes. As a matter of justice, all who have the capacity to pay tax share the tax burden. Tax exemption is not a right but a grace granted by the State on certain reasonable grounds. It has been customary from ancient time onwards both in the East and West to assist religion by giving tax exemption to religious personnel,

177 Some of these observations have been made by Prof. Upendra Baxi, Former Vice-Chancellor of the Delhi University in one of his recent articles, “The ‘Struggle’ for the Redefinition of Secularism in India: Some Preliminary Reflections” in R. C. Heredia and E. Mathias, ed., Secularism and Liberation (New Delhi, Indian Social Institute, 1995), pp. 54-78.
179 Articles 25 and 26 of the Constitution of India.
180 See in particular article 26 of the Constitution of India.
institutions and properties.\textsuperscript{181}

During the time of the Delhi Sultanate and the Mughal Empire, Islam enjoyed tax exemption in India, while others were subject to jizya, a poll tax, for recognition of their religions by the State.\textsuperscript{182} During the British rule in India, tax exemption was granted to all religions. But right up to 1948 the Ecclesiastical Department of the British government paid out of State revenue a large sum of money for the maintenance of Anglican churches and clergymen.\textsuperscript{183}

The Constitution of India empowers the legislature to pass laws to levy taxes.\textsuperscript{184} The amount to be levied through taxation is left to the discretion of the legislature. The Constitution of India, however, doesn’t protect taxes when they contravene the equal protection rights\textsuperscript{185} or any tax measure meant to meet the expense of any particular religion or religious denomination.\textsuperscript{186}

The Indian Constitution is, nevertheless, silent about the matter of taxation on religion. This implies that the State in India is not debarred from imposing taxes on religious institutions. On the contrary, the State in India, by means of various statutes of the Union Government,\textsuperscript{187} grants tax exemption to religious institutions of a public character because tax exemption to religion is a form of State assistance to religion in the public interest. It is part of the State’s commitment for the all round development of its citizens which is a significant affirmation of the inherent worth and dignity of the human person.

1.3.4.2. Direct State Aid to Religion

The Constitution of India does not debar the State to levy taxes on condition that the proceeds of which are defrayed without discrimination to promote and maintain religion. Non-discriminatory taxes for the benefit of all religions would be perfectly valid as protected under article 27 of the Constitution. This article states, “No person shall be compelled to pay taxes the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.”

The constitutional propriety of levying tax on religious activities was, nevertheless, raised for the first time in the year 1954 when the Lakshmindra case\textsuperscript{188} of historic importance was appealed to the Supreme Court of India. The Supreme Court’s observations of this case throw light on the interpretation of the content of article 27 of the Constitution within the secular objectives of the Constitution.

The history of Lakshmindra case is to be seen in the context of several statutes\textsuperscript{189} passed by many Indian Legislatures for the

\textsuperscript{181} The Book of Ezra in the Old Testament reads: “We also notify you that it shall not be lawful to impose tribute, custom or toll upon any of the priests, the Levites, the singers, the door keepers, the temple servants, or other servants of this house of God” (Ezra 7:24). In the Roman Empire, Emperor Constantine the Great provided tax exemption to ecclesiastical properties. This custom prevailed for centuries in the West. Similarly, in ancient India tax exemption was granted to Brahmins and temple properties. However, the tax relief measure to religion in ancient India varied from region to region. See A.S. Altekar, \textit{The State and Government in Ancient India}, op.cit., pp. 264-269.

\textsuperscript{182} Abid S. Husain, \textit{The National Culture of India}, op.cit., p 77.

\textsuperscript{183} Donald E. Smith, \textit{op.cit.}, p. 128.

\textsuperscript{184} “No tax shall be levied or collected except by authority of law”. Article 265, \textit{Constitution of India}.


\textsuperscript{185} “The State shall not deny to any person equality before the law or the equal protection of the law within the territory of India”. Article 14 of the \textit{Constitution of India}.

\textsuperscript{186} “No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination”. Article 27, \textit{Constitution of India}.


creation of Boards of Managers to look after the proper management and administration of religious institutions. The expenses of these Boards have been met by a contribution collected either in the form of tax or fee from the concerned institutions themselves. Similarly, the Government of Madras, under the Hindu Religious and Charitable Endowments Act of 1951, constituted the Hindu Religious Endowments Board in order to work out a system for the administration of the Shirur Mutt. Sri Lakshminda Tirtha Swamiar of Sri Shirur Mutt, the Head (Mathadhipati) of the Shirur Mutt, appealed to the Supreme Court challenging many provisions of the Act as well as the activities of the Board on the ground that they infringed on several fundamental rights guaranteed under the Constitution.

One of the contentions of the appellant in this case was that the contribution levied from their religious institutions was a tax because the proceeds of the levy was not earmarked and kept apart to meet the expenses of the Board but formed part of the revenue of the State of Madras. Therefore, the plaintiff pleaded that it violated article 27 of the Constitution. While examining the case, the Supreme Court found that the contribution was in fact in the nature of tax but held that it did not violate article 27. Regarding the proscription involved under article 27 of the Constitution as raised by plaintiff, the Court commented:

What is forbidden by the Article is the specific appropriation of the proceeds of any tax in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. The reason underlying this provision is obvious. Ours being a secular state and there being freedom of religion guaranteed by the Constitution, both to individuals and to groups it is against the policy of the Constitution to pay out of public funds any money for the promotion or maintenance of any particular religion or religious denomination.193

Therefore, The Supreme Court indicated that the purpose of the contribution was to see that religious trusts and institutions wherever they existed were properly administered. This was a secular administration of the religious institutions with the objective of ensuring that the endowments bequeathed to religious institutions were justly administered and their income was duly utilised for the purposes to which they were established. This implies that it is constitutionally valid to levy tax for religious purposes on condition that the proceeds of which are used non-preferentially for the benefit of the religious cause.

On the contrary, one may be surprised to note during the Seventh Amendment to the Constitution, article 290-A was added to grant State contribution to Hindu temples and shrines in the States of Tamil Nadu and Kerala. Article 290-A reads:

A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of the Consolidated Fund of the State of Madras every year to the Devaswom Fund established in that State for the maintenance of Hindu temples and shrines in the territories transferred to that State on the first day of November, 1956, from the State of Travancore-Cochin.

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193 Ibid., at 296.
194 Following this case, when cases of this sort arose later on the courts in India have upheld the validity of levying fee or tax for religious purposes provided they have been non-discriminatory. See Kidangazhi Manakkal Narayanan Nambudiripad v. State of Madras, AIR 1954 Mad 385; Jagannath Ramanuj Das v. State of Orissa, AIR 1954 SC 400; Commissioner of Hindu Religious and Charitable Endowments, Mysore v. U. Krishna Rao, and AIR 1970 SC 414.
195 Section 19 of the Constitution (Seventh Amendment) Act, 1956, with effect from 1.11.1956.
It is required here, as a matter of clarification, to refer to the historical background of Article 290-A. Prior to the year 1949, Travancore and Cochin were contiguous Indian States under Hindu Maharajas. The rulers of these States sanctioned a large annual grant of money for the maintenance of Hindu temples and shrines in their respective States and directly controlled the management of these institutions. The two States were merged in 1949. As the royal grants were in perpetuity, the obligations involved thereby were also passed over to the newly created State of Travancore-Cochin. To this effect the consent of the two rulers and the Government of India were assented to by an Act of a Covenant. Hence, in 1956 when the new State of Kerala was reconstituted from that of Madras (Tamil Nadu), the covenantal obligations were also passed on and shared by the States of Kerala and Tamil Nadu by making payments to the Devaswom Funds from the Consolidated Funds of these States.196

Apart from the historical context of the formation of the Devaswom Fund, the annual payment to Devaswom funds as granted in article 290-A of the Indian Constitution remains open to objection. This is a continuation of the old system of State patronage to religious institutions prevalent in India from ancient time. Similarly, in another case the Delhi High Court upheld the constitutional validity of the State assistance to the celebrations associated with the 2500th anniversary of the attainment of salvation by Mahavira, the founder of Jainism. The Court said that the assistance of the State on an occasion like this neither amounted to State giving support to Jainism nor infringed on article 27 of the Constitution.

1.3.4.3. State Aid, Education and Religion

Education is one of the important sectors where India’s commitment to the philosophy of the secular State comes to force. Organized education in India traditionally remained closely associated with religion, especially confined to Hindu and Muslim religious institutions. The Mughal emperor Akbar, nevertheless, made an attempt to impart secular education by means of government schools. It was also one of the duties of the Indian rulers to patronise classical learning that basically remained religious in character. The British government in India followed this policy. Consequently, in 1781 the British government founded the Calcutta Madrasa for Islamic study, in 1784 the Asiatic Society of Bengal for Oriental study, and in 1792 the Benaras Sanskrit College for Hindu classical learning. The Christian missionaries were also permitted to establish educational institutions of their choice to which some grants were defrayed by the government.

On the other hand, certain attempts were made by the British officials to follow the policy of religious neutrality in all government educational institutions. In 1854 Lord Bentinck, for instance, asserted:

The fundamental principle of British rule, the compact to which the government stands solemnly pledged, is strict neutrality… The same maxim is peculiarly applicable to general education. In all schools and colleges supported by government, this principle cannot be too strongly enforced. All interference and injudicious tampering with the religious belief of the students, all mingling of direct or indirect teaching of Christianity with the system of instruction ought to be positively forbidden.

The dispatch of Sir Charles Wood, dated July 19, 1854, laid the foundation of the present-day system of education in India. The dispatch asserted that the government educational institutions should be strictly secular as these were founded for the benefit of the whole population of India. The dispatch, at the same time, brought out the grants-in-aid system to private educational institutions with

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196 For details see Donald E. Smith, *op.cit.*, pp. 130-131. Devaswom Fund means fund meant for the Hindu religious purposes.

197 *Suresh Chandra v. Union of India*, AIR 1975 Del 168.


financial support where the government required to take no notice whatsoever of the religious doctrines that may be taught. They laid great emphasis on education to eradicate illiteracy and backwardness prevalent in the country and to place the nation in the path of advancement in every field of knowledge with the hope of achieving integrated welfare of the citizens that furthers the cause of human dignity. For this purpose, they brought out a number of provisions under the Directive Principles of State Policy in Part IV of the Constitution.

Besides the encouragement given to education through constitutional provisions, the State in India encourages private agencies including the religious communities to run educational institutions with the objective of speeding up literacy for the progress of the nation. The Constitution, moreover, guarantees that in imparting education, the minorities are free to conserve their respective language, script, culture and religious tenets. The State in India assists with substantial aid to facilitate education through these institutions. In giving aid, the Constitution prohibits the State from religious or linguistic discrimination.

Article 28 of the Constitution is specifically concerned with the question of religious instruction in three categories of educational institutions. It provides:

1. No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
2. Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institutions.
3. No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Clause (1) of the Article 28 refers to the first category of educational institutions, which is wholly owned by the State, where the prohibition to impart religious instruction is absolute. Neither the State nor a private agency may provide religious instruction in such institutions. Clause (2) of Article 28 deals with the second category of educational institutions in which the State does the administration in the place of a trustee. However, under this category the institution itself is established under a trust or an endowment wherein the terms of the trust or endowment require imparting religious instruction, which is protected under this clause.

Clause (3) of Article 28 deals with the third category of educational institutions. These are owned and managed by religious denominations, but come under the system of grants-in-aid. These institutions are free to impart religious instruction. The provision under article 28 (3) assures the conscience clause by which the State protects the individual’s right to freedom of conscience by placing them above religion while at the same time the State acknowledges as well as protects religious pluralism.

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203 Ibid., p. 341.
204 “The State shall, within limits of its economic capacity and development, make effective provisions for securing the right…to education…” Article 41, Constitution of India.
205 The Benaras Hindu University and the Aligarh Muslim University were founded on endowments, which required that religious instruction must be imparted in Hinduism and Islam respectively though these universities come under the administrative care of the Union Government. These and similar institutions are protected under clause (2) of article 28.
1.3.4.4. State Aid and State Control

Professor J.J. Anjaria and Dr. Abid S. Husain indicate that the policy of aiding educational institutions has been in existence in the Indian political system for long, even before the making of modern India. It is necessary that a welfare State like India need to make use of all facilities and personnel, both from public and private sectors of the society, including the capabilities available in the religious institutions to spread literacy and advance in knowledge for the benefit of the people so that all sections of the society have a variety of opportunities for progress and human resource development that may sustain a civil society informed by the principles of human dignity.

In the present state of affairs, education is a costly sector in India as it is elsewhere. So, educational institutions need substantial grants by way of aid from the State. In this context, in dealing with education in the country, the Constitution guarantees to minorities the right to conserve their language, script and culture. The State also grants to all minority communities, whether based on language or religion, the right to establish and administer educational institutions of their choice as given in the articles 29 and 30. Article 29 reads:

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Article 30 provides:

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

The propriety of interference in the management of schools

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on ground that it is under the management of a minority, whether based on religion or language.

Clause (1) of article 30 guarantees to all minorities the right to establish educational institutions of their choice and clause (2) of the same article saves educational institutions managed by minority communities from discrimination in giving State aid. This article is supplementary to clause (a) of article 26, which empowers religious denominations to establish institutions for charitable purposes.

State aid involves also State control over beneficiary institutions in order to see that the goal set by the government is better realised. Some of the methods of control exercised by the State such as inspection, process of granting recognition, auditing and qualification of teachers etc., are acceptable to all. The conflict of interest arises when control becomes a matter of interference with the internal administrative policies, which are proper to these institutions. The requirement here is a harmonious understanding between the general interest of the society at large and affirmative interest of the minority communities to maintain their identity as well as their development. On several occasions the Supreme Court has been appealed to on account of conflicts arising from State encroachment on the autonomy of the minorities to manage their educational institutions as alleged by the latter. Christians have brought most of these allegations as they run the highest number of educational and charitable institutions across the country. We shall examine for our purpose three important cases of this sort to see in the judicial decisions values that protect human dignity.

The propriety of interference in the management of schools

aided by the State arose for the first time in a historic case in 1957 in reference to the Kerala Education Bill case.208 The object of the Bill was to lay down certain rules for the better management of all aided educational institutions in the State of Kerala. Clause 3 (5) of the Bill warned that failing to comply with the stipulations of the Bill would amount to forfeiture of State recognition of the concerned schools. Sub-clause (3) of clause (8) made it known that the fees collected from the students in an aided school must be deposited with the government. Clause 9 dealt with certain regulations regarding the salary of the teachers employed in the State aided schools. Clauses 10, 11 and 12 authorised the State to prescribe qualification for the appointment of teachers and regulations to improve the working conditions of the school staff. In particular clause 11 provided that appointment of teachers should be made by the Public Service Commission with due regard to the principle of communal reservation. Clauses 14 and 15 contained provisions for government take over of the schools in case of mismanagement.209

The Managers of the Christian minority schools pleaded before the Supreme Court that the impugned Bill was an infringement of their rights guaranteed under clause (1) of article 30 of the Constitution. The State of Kerala, on the contrary, defended the Bill on the ground that so long as the institutions did not receive any aid from the State, they had a right to establish and maintain their educational institutions within the meaning of article 30 (1) of the Constitution. However, if the minorities were the beneficiaries of any State aid, they had to abide by the terms of the aid, provided there was no discrimination.

In giving verdict to this case, the Supreme Court rejected the extreme positions taken by the State of Kerala and the Managers of the Christian minority schools. The Supreme Court held that without infringing the rights guaranteed to the minorities under article 30 (1), it was open to the State through proper channel to lay down reasonable rules and regulations governing the institutions receiving the aid. The Court observed:

It stands to reason… that the constitutional right to administer an educational institution of their choice does not necessarily militate against the claim of the State to insist that in order to grant aid the State may prescribe reasonable regulations to ensure the excellence of the institutions to be aided.210

But the Supreme Court held that such rules could not violate the fundamental right of the minority educational institutions to administer them as protected under Article 30 of the Constitution because the legislative power of the State was subject to fundamental rights.211 In regard to the over-all tenor of the Bill, one writer observed that the most fundamental Christian objection to the Bill was that it took away the freedom of the management to appoint the kind of teachers needed to maintain the distinctive Christian orientation and atmosphere in the school.212

A couple of years later the Sidhrajbhai Sabbai case213 was brought before the Supreme Court for protection under article 30 of the Constitution. The Sidhrajbhai Sabbai case was about a minority Christian society, known as the Gujarat and Kathiawar Presbyterian Joint Board, which was running several primary schools and a Teacher’s Training College in the State of Gujarat. The college was getting an annual grant under the Education Code of the State of Gujarat. The Education Department of the State held examinations and granted certificates to teachers trained in the college of the Sidhrajbhai Sabbai Board. The State was interfering with the admission policy of the college and ordered that 80 per cent seats of the college should be reserved for the nominees of the Government of Gujarat on the ground that the State of Gujarat need to train 40,000 teachers to staff the primary schools in that State. On refusal to comply with the State order, State aid was suspended.

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209 Ibid., at 983.
210 Ibid., at 983.
211 Ibid., at 983.
As the college belonged to the minority religious community, the Managing Board of the college appealed to Supreme Court for constitutional protection under article 30 (1), in addition to a few other provisions of the Constitution. In its observation of the instance case, the Supreme Court found that the order of the Gujarat Government made serious inroads into the rights guaranteed to the Managing Board to administer the college under clause (1) of article 30. In issuing the judgment, the Court compared this article with article 19 under which reasonable restrictions can be placed on the fundamental rights of citizens.

The Supreme Court observed in the instant case:

Unlike Art. 19, the fundamental freedom under clause (1) of Art.30, is absolute in terms: it is not made subject to any reasonable restrictions of the nature the fundamental freedoms enunciated in Art.19 may be subjected to. All minorities, linguistic or religious have by Art. 30 (1) an absolute right to establish and administer educational institutions of their choice; and any law or executive direction which seeks to infringe the substance of that right under Art. 30 (1) would to that extent be void. This, however, is not to say that it is not open to the State to impose regulations upon the exercise of this right...Regulations made in the true interests of efficiency of instruction, discipline, health, sanitation, morality, public order and the like may undoubtedly be imposed. Such regulations are not restrictions on the substance of the right which is guaranteed: they secure the proper functioning of the institutions, in matters educational.214

The Supreme Court, furthermore favouring the argument of the appellants that the regulatory measures of the State could only be in the interest of the minority institution, emphasised:

The rights established by Art. 30 (1)...is intended to be effective and is not to be whittled down by so-called regulative measures conceived in the interest not of the minority educational institution, but of the public or the nation as a whole...Regulations which may lawfully be imposed either by legislative or executive action as a condition of receiving grant or of recognition must be directed to making the institution while retaining its character as a minority institution. Such regulation must satisfy a dual test – the test of reasonableness and the test that it is regulative of the educational character of the institution and is conducive to making the institution as effective vehicle of education for the minority community or other persons who resort to it.215

These judicial observations led the Supreme Court to decide that State’s order to reserve 80 per cent of the seats for its nominees was an unreasonable demand on the minority college and, therefore, violated the protection granted to minority institutions under clause (1) of article 30 of the Constitution.

Similarly, in the case of Fr. Proost216 the Supreme Court had to decide once again on the extent of protection guaranteed to minority educational institutions under Article 30 (1) of the Constitution. In this case, the petitioners were the Jesuit Fathers of the Catholic Church who established the St. Xavier’s College and got it affiliated with Patna University, who wanted to secure to the college the rights appertained to a minority educational institution.

The management of the college under consideration contended that the college was founded to give Catholic youth a full course of moral and liberal education by imparting religious instruction and maintaining “a Catholic atmosphere in the institution”.217 The management however, asserted that the college was also open to all non-Catholic students. The State of Bihar, nevertheless, argued that even though the college came under minority community, the protection of Article 30 (1) could not be extended to the college because the provision of the said article applied only to the institutions, which were founded to conserve the language, script

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214 Ibid., at 545. Our emphasis is in italics.
215 Ibid., at 547. Our emphasis is in italics.
217 Ibid., at 466. Our emphasis is in italics.
or culture as referred to under article 29 (1) of the Constitution. The State of Bihar further contended that the college under consideration in the instant case was, moreover, open to all sections of the people and there was no programme of such kind as specified under Article 29 (1) of the Constitution and, therefore, the college did not qualify to seek protection of the Constitution as guaranteed under Article 30 (1).

The Supreme Court rejected altogether the position taken by the State of Bihar. The Court asserted that articles 30 (1) and 29 (1) had specific purposes. Article 30 (1) applied to all minority educational institutions. The fact that the members of the other community were given admission in a minority community did not prevent it to secure protection of Article 30 (1) of the Constitution. The Supreme Court observed that the benefit of article 30 (1) was not limited to the needs of a single community exclusively, but it grants minorities the right to establish educational institutions to cater to the educational need of the citizens or section thereof.

The Courts in India have upheld two principles in the aforesaid cases. Firstly, under clause (1) of article 30, the Courts have defended in absolute term the protection guaranteed to the minority institutions to establish and administer educational institutions of their choice. Secondly, the Courts have also approved the State-intervention to impose reasonable regulations on them in the interest of efficiency of the institution and to maintain certain fundamental human values, such as public order, morality and health which are necessary for people to organise their lives in a manner that protects human dignity.

In the case of the Kerala Education Bill, while admitting State intervention, the Supreme Court upheld the State action on basis of human welfare for the benefit of employees and backward classes. Similarly, in the case of Sidhrajbhai Sabbai the Supreme Court held valid State intervention in the minority institutions in the interests of efficiency of instruction, discipline, health, sanitation, morality, public order and the like. The Court, nevertheless, observed that “such regulations are not restrictions on the substance of the right” granted to minorities under clause (1) of article 30 but to secure the proper functioning of the institutions in a way that is affirmative of human dignity.

These judicial decisions on minority institutions reiterate the principle of tolerance by respecting plural ways of life in the civil society, which is an integral aspect of Indian ethos. The value significance of this principle finds constitutional protection under articles 29 and 30. While clause (1) of article 29 guarantees to any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own the right to conserve the same, article 30 protects the right to minorities based on religion or language to establish and administer educational institutions of their choice. Therefore, minorities are given space to preserve and promote the value potentials of their respective traditions as well as to put them in the service of the nation by way of educational institutions. Supreme Court’s position on these cases also indicates that the judiciary recognises the reality of the Indian people characterised by a pluralism of identities, namely religious, cultural and linguistic. Constitutional recognition of this pluralism is a veritable affirmation of the dignity of human persons in their individual self-identities and in their collective community identities.

1.3.4.5. State Aid Conditioned by Indian Political Ethos

The preceding sections dealt with constitutional matters regarding financial assistance of the State to religion and to minority educational institutions. This calls us to clarify the constitutional values implied in this unique manner of operation of the State in India towards religion and minority institutions under a secular Constitution. As seen elsewhere, the State in India is free to tax or grant tax exemption to religious institutions on the condition that in either approach there is no discrimination against any religion or any section thereof. As a matter of fact, religious institutions enjoy

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3. Ibid., at 983.
tax exemption in India. This is a form of assistance the State grants to religion.

However, the Supreme Court has observed in some instances that the State is entitled to impose levy on religious institutions if the proceeds are meant to defray the administrative and maintenance expenses when the State takes care of the vast religious properties and ceremonies within the purview of religious Endowments.\(^{223}\) It has been held that such levy measures would not amount to infringement of religious freedom protected under articles 25 and 26 of the Constitution. It is, moreover, constitutionally valid for the State to extend direct financial assistance for even purely religious purposes if such assistance is non-discriminatory.\(^{224}\)

Similarly, the Constitution guarantees to all minority educational institutions the entitlement to State aid. In granting aid to educational institutions, the State is prohibited to exclude any educational institution on the ground that it is under the management of a minority whether based on religion or language.\(^{225}\) Furthermore, educational institutions run by the religious denominations are free to impart religious instruction. The State, at the same time, safeguards the freedom of the individual person by guaranteeing a conscience clause.\(^{226}\)

The State’s support to religion and educational institutions by way of financial assistance is not something new added into the Constitution but only an integration of an indigenous political value into the Constitution. For, as we have studied in chapter two, all round welfare of the people was the aim of the ancient Indian political system.\(^{227}\) The State in ancient India took care of religion and classical learning. By integrating these indigenous duties of the State in the secular Constitution of modern India, the framers of the Constitution first of all made it clear that the secular polity of Indian people has been largely shaped for a pluralistic nation-state where diverse religions with competing claims of world views flourish, and they are very much part of every day life.

This means firstly, the political philosophy of Indian secularism does not opt for a theory of absolute separation between State and religion, but commits for a model of secular State that expands the space needed in the civil society for the growth of religious pluralism on reasonable grounds.\(^{228}\) It treats religion as an important institution of a free society for people to organize their way of life according to their perspectives of God and the good. Hence, through various provisions,\(^{229}\) the Constitution not only protects religious freedom but also does not prohibit the State to grant indirect or direct aid to religion if such aid is non-discriminatory.\(^{230}\)

Secondly, the constitutional entitlement to minorities to establish and administer educational institutions of their choice and State aid for the same\(^{231}\) is the recognition of the fact of multifaceted pluralism of the Indian people. Once again, the framers of the


\(^{224}\) Articles 27 and 290-A of the Constitution of India.

\(^{225}\) Clause (2) of article 30 of the Constitution of India.

\(^{226}\) Clause (3) of article 28 of the Constitution of India.

\(^{227}\) See above Chapter two, especially pp. 78-79.
Constitution made it clear that the civil society is characterized by diversity of community identities, such as the religious, cultural, ethnic and linguistic diversity as well as the composite character of Indian people by way of coexistence as a national community of communities in one nation-state under a secular polity.232

Thirdly, the affirmation of the religious, cultural, ethnic and linguistic identity of the communities by way of constitutional safeguards is the confirmation of the value of dignity in diversity accorded to each community as a human community in their specific community identities in a plural society. This is a veritable substantiation of the fact that the value of human dignity is central to the political philosophy of Indian secularism.

1.3.5. The Welfare State and Religion

A welfare State means a State that expands its activities to render maximum welfare to its citizens so as to provide a wide range of social services and social security, especially keeping in view the benefit of the weak and underprivileged members of the society. It is committed to promote social and economic justice among its citizens without sacrificing their essential liberty. The welfare State aims to establish a humane and progressive society. It is opposed to the extremes of the totalitarian Communist State on the one hand and the unbridled individualism of the Laissez Faire State on the other.233 Commenting on the institutional nature of the welfare state Girvetz writes:

The welfare state is the institutional outcome of the assumption by a society of legal and therefore formal and explicit responsibility for the basic well-being of its members. Such a society or its decision-making groups become convinced that the welfare of the individual...is too important to be left to custom or informal arrangements and private understandings and is therefore a concern of government.234

In a welfare State, the political community as a whole recognises a sense of collective responsibility towards the weaker or the less fortunate members of that community. The State, therefore, takes definite action to assist them and gives legal safeguards against social evils violating human dignity because its fundamental value is respect for the dignity of the individual person. Some of the constitutive principles of the welfare State are equality, liberty, fraternity, social justice, social security, social service, and humanitarianism and world peace. Most of these are coming from the fruits of the French Revolution and from Fabian socialist thinkers of the late nineteenth century.235

The idea of welfare State originated in the Western countries in two separate historical situations and developed through two different kinds of State action. The first was the State action undertaken in the nineteenth century in the form of social service to alleviate the problems created by industrial revolution affecting public health, factory regulation, education, basic amenities of life and the like. The second was the State policies carried out in the Western countries in the twentieth century to prevent gross poverty and destitution both at home and abroad, a devastating process accelerated by the political and economic fall out of the Second World War. Hence, the European democratic States resorted to State planning and other socialistic measures to achieve speedy reconstruction and rehabilitation of their shattered economy and to build a new social order in which every citizen was entitled to a “national minimum” within the framework of a democratic political order.236

India is committed to the ideals of the welfare State. This is evident from the Preamble of the Constitution. After referring to India as a Sovereign Socialist Secular Democratic Republic, the

236 Ibid., p. 103.
Preamble declares the Constitution’s resolve to secure certain basic objectives to all its citizens. Among them, pride of place is given to providing social, economic and political justice for all. This object in view, the framers of the Constitution have incorporated a number of provisions to protect social and economic welfare under Directive Principles of State Policy in Part VI of the Constitution.

The core of the Directive Principles lies in article 38 of the Constitution, which echoing the Preamble reads:

The State shall strive to promote the welfare of the people by securing and promoting as efficiently as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst the individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Hence, the Preamble of the Indian Constitution envisages that the positive and constructive content of political freedom must be the creation of an egalitarian society protected under the Fundamental Rights as guaranteed in Part III of the Constitution, which is to be informed by the principles of a welfare state as spelt out in Part IV of the Constitution in a manner that defends human dignity.

The Indian judiciary has further corroborated the importance of welfare state as enshrined in the Constitution. Commenting on the purpose of the Directive Principles in relation to the Fundamental Rights as guaranteed in Part III of the Constitution, Mr. Justice Hegde of the Supreme Court said that these directives were to fix certain social and economic goals for immediate attainment by means of non-violent social revolution so as to change the structure of the Indian society into a more humane and progressive one.

The former Chief Justice Dr. P.B. Gajendragadkar stated, “It is often said that a Preamble to a Constitutional document affords a key to its spirit and its meaning…the basic philosophy of the Constitution of India is to be found in essence, in the Preamble itself…India is committed to the ideals of the Welfare State and must establish socio-economic justice.”

Another former Chief Justice Mr. Subba Rao also underscored that commitment to the principles of Welfare State was an essential feature of the Preamble of the Constitution of India, which embodied “all the ideals and aspirations for which the country had struggled during the British regime.” Similarly, in Keshavanand Bharati case, while debating on the basic structure of the Indian Constitution, Mr. Justice Shelat and Mr. Justice Grover added the mandate to build a welfare state as contained in Part IV of the Constitution to its basic structure.

1.3.5.1. Religious Freedom Subject to Social Welfare and Reform

One of the areas where the operation of the welfare State comes into conflict with religion is in the matters associated with social reform. The ambit of religious jurisdiction in some communities in India is so vast that it covers every aspect of a person’s life from birth to death. Religious usage pervades and governs all domestic, social and property relations contravening social welfare and reform.
of the State. The framers of the Constitution were aware that these problems were linked with the religious practices in India. Hence, they have spelt out saving provisions for State intervention in the matters of social welfare and reform to strengthen the values of human dignity. In this section we study only those reforms associated with religion and egalitarian society.

In the Sri Lakshmindra case the petitioner questioned the State’s right to interfere with religious freedom in the name of promoting social welfare and reform. Mr. Justice Mukerjea of the Supreme Court observed that the State could legislate under sub-clause (b) of clause (2) of article 25 for the purpose of social welfare and reform, even though such statutes might interfere with religious practices. In such instances, opined the learned judge, the Courts in India have to balance the essential and obligatory features of a religious practice on the one hand and the social welfare and reform to be achieved by the State on the other hand. As a matter of fact, the judiciary in India does not sit in judgment over the laws enacted by the legislature for the promotion of social welfare and reform.

The legislature’s right to enact statutes for the purpose of social welfare and reform has been further reiterated in the Narasu Appa case when the Bombay High Court had to deal with the

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243 It should be noted that in India, the state’s right to legislate in matters of religious and social customs was first asserted only during the British rule and that also with the insistence of the Reformers of the Indian Renaissance who initiated socio-religious reform and sought for legal protection from the state. It is because both the Hindu and Muslim rulers lacked legislative power. In matters of law, their only function was to uphold and execute the traditional laws of the various sections of the people. For detail see R.C. Majumdar, History, op.cit., vol. 10, pp. 89-159, 256-294; K.M. Panikkar, Hindu Society at Cross Roads, op.cit., p. 41.

244 “(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law –
(b) 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 25 (2) (b), Constitution of India.


249 AIR 1957 All 411.

250 Ibid., at 414.
The Act of performing a second marriage in the presence of the first wife cannot be regarded as an integral part of Hindu religion, which is protected under Art. 25 of the Constitution. Even if bigamy be regarded as an integral part of Hindu religion the impugned rule is protected under Art.25 (2) (b) of the Constitution.251

In another case of historic importance252 the Supreme Court reiterated that the religious practices are subject to social welfare and reform measure initiated by the State. Following is the history of the case. As a social welfare and reform measure, the Tamil Nadu Government ruled out the appointment of priests by hereditary succession in a Hindu temple.253 The petitioners contended that hereditary priesthood was an integral part of the Saivite and Vaishnavite temple practices in Tamil Nadu. The Supreme Court rejected the petitioners’ claim and held that since the appointment of the priest was a secular act, which was different from the priestly function performed in the temple, the State was entitled under article 25 (2) (b) to regulate these appointments for purposes of social welfare and reform.

1.3.5.2. Abolition of Untouchability

The practice of untouchability based on the caste system has been a blot on the Indian society. Here we are concerned with the practice of untouchability whereby a certain section of the Indian community on account of their birth or profession were shunned and excluded in the past from religious practices in the Hindu temples. Various theories and opinions have been proposed on the origin of the caste system and untouchability.254 Some regard it as part of Hindu religion and others treat it as merely a social structure, which happened to develop in India.

251 Ibid., at 414.
255 J.H. Hutton, op.cit., p. 23.
256 The ‘depressed classes’ is another term for the untouchable castes. In the Government of India Act of 1935 and in the Constitution of India as promulgated in 1950 the term ‘Scheduled Castes’ is used to denote in general term the same groups of people. Gandhiji called them ‘Harijans’ which means the children of God and thereafter this term is also used in official documents and also in common usage. Of late, the people of the depressed classes call themselves Dalits. See, Donald E. Smith, op.cit., p. 303; B.R. Ambedkar, Annihilation of Caste, op.cit., p. 39.
257 K.M. Panikkar, Hindu Society at Cross Roads, op.cit., p. 3.
were not allowed to wear clothing above the waist.\textsuperscript{260} During the British rule, one of the measures adopted by the government to establish legal equality was the government policy to admit the children of the untouchable castes in all government schools and in all State aided schools. By 1878, this policy was enhanced by giving special fee concessions to these children.\textsuperscript{261}

The significant contribution of the British regime in this regard was that the State under British rule reduced the power of the caste-based village political institution known as the \textit{panchayat} and expanded the secular jurisdiction of the State. The British administration inculcated the secular principle that it was within the purview of the State to regulate and change society by legislation and, therefore, marginalized the traditional caste regime, which held its power by the authority of the sacred texts and immemorial customs.\textsuperscript{262}

The Indian Secular State disregards caste in the same way as it disregards religion in defining an individual’s rights and duties in terms of citizenship. An egalitarian society of individuals has become the legal basis of the social order as against a hierarchy of persons of lower and higher before the law. Equality before the law and equal protection of the law has been the positive expression of this principle as given in article 14 of the Constitution, which reads, “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”.

In fact, prior to the creation of the Constitution, determined efforts were made by Indian reformers in many parts of the country to abolish untouchability. These efforts had enabled many States during the British Raj to enact legislations proscribing the practice of untouchability in any form.\textsuperscript{263} These efforts received constitutional expression in article 17 of the Constitution, which abolished untouchability and made its practice in any form a punishable offence. Article 17 states, “Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.”

In pursuance of article 17, the Parliament enacted in 1955 the untouchability (offences) Act\textsuperscript{264} prescribing punishments for the practice of untouchability. This Act applies not only to Hindus but also to all who take part in the excommunication of, or imposition of any social disability on, any person who refuses to practice untouchability.\textsuperscript{265} In regard to the practice of religion and untouchability, the Act makes it an offence to prevent any person from entering places of public worship due to the practice of untouchability. The Act says:

(i) Whoever on the ground of untouchability prevents any person: from entering any place of worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

(ii) from worshiping or offering prayers or performing any religious service in any place of public worship, in the same manner and to the same extent as is permissible to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such persons; shall be punishable with imprisonment which may extend to six months, or with a fine which may extend to five hundred rupees or with both.\textsuperscript{266}

\textsuperscript{260} J.H. Hutton, \textit{op.cit.}, pp. 94-148.
\textsuperscript{261} G.S. Ghurye, \textit{op.cit.}, pp. 189-190
\textsuperscript{262} Donald E. Smith, \textit{op.cit.}, p. 304.
\textsuperscript{263} Some of these enactments are: The Madras Removal of Civil Disabilities Act, 1938 (Madras Act 21 of 1938); The Travancore-Cochin Removal of Social

\textsuperscript{264} Untouchability (Offences) Act, 1955 (Act 22 of 1955).
\textsuperscript{265} Section 7, the Untouchability (Offences) Act, 1955.
\textsuperscript{266} Section 3, the Untouchability (Offences) Act, 1955.
In a case brought before the Allahabad High Court, the Court upheld the conviction of two dhobis (washer men) under the United Provinces Act, who refused to wash the clothes of Chamars, an untouchable caste, in that Province. Similarly, a barber who refused to cut the hair of individuals belonging to the caste of cobblers and leather workers was convicted under the West Bengal Hindu Social Disabilities Removal Act. The petitioner in the instant case registered his contention before the Calcutta High Court claiming that the impugned Act contravened his constitutional right to carry out his profession as barber. The Court rejected his claim and held that regulations imposed by the Act were reasonable ones, which were meant to remove social evil, and, therefore, in no way deprived the petitioner of his constitutional rights.

In the famous Vishwanath temple case of Banaras the petitioners challenged the constitutionality of the Uttar Pradesh Removal of Social Disabilities Act. The Act provided that a person could not prevent another from having access to any public temple or enjoying the advantages, facilities and privileges of any such temple to other Hindus. Traditionally the Vishwanath temple of Banaras was open to high caste Hindus only. The low-caste Hindus, the so-called Harijans, were not allowed to enter the main portion of the temple for darshan (worship) of the presiding deity. When the Harijans demanded entry on the basis of the enabling Act, the temple authorities objected on the ground that the Act was unconstitutional. The Division Bench of the Allahabad High Court rejected the petitioners’ objection and held the impugned Act valid on the basis of social welfare and reform initiated by the State of Uttar Pradesh.

In 1966 another important case of a similar kind was appealed before the Supreme Court. In this case the appellants challenged the Bombay Act, which permitted to open Hindu places of worship to all sections and classes of Hindus. The appellants, who belonged to a certain Swaminarayan sect, known as the Satsangi sect, registered their contention that theirs was a sect, which was entirely separate and distinct from rest of the Hindu community. Therefore, the appellants claimed that the untouchables and even other non-satangis could not claim entry to their temples.

The Supreme Court, however, rejected the contention of the petitioners on the ground that the Satsangis formed part of Hindu religion and, therefore, they could not exclude entry to low caste Hindus even if they were non-Satangis. Dr. Gajendragadkar, Chief Justice, who delivered the judgment of the Supreme Court in the instant case, asserted that the main objective of the temple entry act was "to establish complete social equality between all sections of Hindus in the matter of worship".

While giving the decision of the Supreme Court, first of all the Chief Justice traced the long history and nature of Hinduism. He relied on the authoritative scholarly interpretation of Hinduism written by such scholars as Monier Williams, Dr. Radhakrishnan, Max Muller and Bal Gangadhar Tilak, and then indicated the evolution of the Satsangi sect and its religious ideal as having based on the philosophy of Visishtadvaitavada of Ramanuja Chari. Consequently, the honourable Chief Justice declared though the Satsangis could be considered as reformers, yet they were not out of the Hindu fold. Summing up the observations of the Court he then asserted:

In conclusion, we would like to emphasise that the right to

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267 State of U.P. v. Banwari, AIR 1951 All. 615. Quoted in Donald E. Smith, op.cit., p. 307
enter temples which has been vouchsafed to the Harijans by the impugned Act in substance symbolises the right of Harijans to enjoy all social amenities and rights for, let it always be remembered that social justice is the main foundation of the democratic way of life enshrined in the provisions of the Indian Constitution.\footnote{Ibid., at 1135.}

In summing up these observations, we stress that the caste based hierarchical social order of the Hindu society has been a stumbling block for the creation of an egalitarian social order because the caste system divides the human community into high and low before the law. Implicit in this system is the concept of hierarchical anthropology according to which human persons in their essential nature are not equal by birth. The caste-based anthropology denies the dignity of human persons as moral subjects and remains opposed to an egalitarian social order, which is a pre-requisite to establish secular State. Therefore, religion must give way to these legal measures amounting to social welfare and reform.

\section*{1.3.5.3. Egalitarian Society in Defence of Human Dignity}

Articles 14, 15 and 16 of the Constitution of India deal with the right to equality. Article 17 is the special provision that abolishes ‘untouchability’ and forbids its practice in any form. Right to equality before the law and equal protection of the law to all citizens irrespective of religion, race, sex, place of birth is one of the basic values of a secular democratic State.\footnote{Both aspects of the equality right are also found in the Charter of Universal Declaration of Human Rights of the United Nations: “All are equal before the law and are entitled without any discrimination to equal protection of the law.” Article 7, Universal Declaration of Human Rights, (1948).} Article 14 of the Constitution provides both aspects of equality to all persons, including aliens who reside within the territory of India.\footnote{V.D. Mahajan, Constitutional Law of India, op.cit., 86-87.}

There are at the same time some provisions of the Constitution that recognise exception to the general rule of equality on various reasonable grounds. These are given in clauses (3) and (4) of article 14 and in clauses (4) and (5) of article 16. Exceptions to the general rule of equality granted under clause (4) of article 15 and clause (4) of article 16 would be of interest for our consideration.

Article 15 reads:

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to –
   a. access to shop, public restaurants, hotels and places of public entertainment; or
   b. the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
3. Nothing in this article shall prevent the State from making any special provision for women and children.
4. Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled castes and the Scheduled Tribes.

Article 16 reads:

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office (under the
Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory) prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments, or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connexion with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 15 of the Constitution provides for a particular application of the general principle of equality embodied in Article 14. Clause (1) of article 15 directs the State not to discriminate against any citizen on the ground only of religion, race, caste sex or place of birth or any of them. The prohibition contained in this clause applies to the State in dealing with citizens. Clause (2) of the article 15 prohibits the private individual as well as the State from inflicting any discrimination or disability with regard to citizen’s access to shops, hotels etc., and all places of public entertainment and resort. The social and religious impact of this clause is to be seen in the context of the dreadful history of the so-called ‘untouchable people’ who, for centuries in the past, were subject to social segregation and humiliation in many parts of the country.

Similarly, clauses (1) and (2) of article 16 embody the principle of equality laid down in article 14 with reference to appointment and employment under the State.

Let us now analyse and see the rationale behind the exception clauses to the general doctrine of equality, which are known as provisions of “protective discrimination” or “compensatory discrimination.” Clause (3) of article 15 makes exception in favour of women and children and clause (4) of the same article provides exception in favour of some backward classes of citizens and for Scheduled Castes and Scheduled Tribes for their advancement in the field of education. Similarly, clause (4) of article 16 gives exception in favour of any backward class of citizens in the area of appointment for jobs under the State, if they are not adequately represented in such services.

The framers of the Constitution were aware that women and children needed a humane social order conducive to their growth and empowerment affirmative of their dignity and, therefore, the State is free to enact provisions to that effect. The constitution-makers thought out also the socially and educationally backward communities as a ‘class of people’ who deserved, on reasonable grounds, certain concessions or differential treatment - also known as affirmative action - to catch up with the progress of the society so that these communities would be eventually enabled to join the national mainstream with dignity and self-respect.

These exception clauses for differential treatment provided in the Constitution add a new dimension to what the right to equality means in a secular democratic State, which is committed to the principles of egalitarian social order and social justice in order to further the cause of human dignity for all citizens. It means equal treatment of equals in equal circumstances. However, this does not mean that individuals or groups are to be treated as identical in all respects. It means that the individual or the group is to be treated equally in relation to the claim or right in question.

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280 Ibid., pp.190-110.
285 For various kinds of classification permitted under the provisions of the Constitution of India for protective discrimination see V.D. Mahajan, Constitutional Law of India, op.cit., pp. 87-90.
not prohibit the State to make exceptions on reasonable grounds, if the exception sought by the State should be consistent with the advancement of the weaker sections of people in the society so that they may engage themselves with the rest of the society in self-respect and dignity.\(^{287}\) This principle was the defining to add clause (4) to article 15 by the Constitution (First Amendment) Act, 1951.\(^{288}\)

The reason to amend article 15 of the Constitution arose as a result of the decision of the Supreme Court in the historic Champakam Dorairajan case.\(^{289}\) The facts of the case were as follows: The Government of Madras had issued an order known as the Communal Government Order (Communal G.O.), which, \textit{inter alia}, classified students on the basis of caste and community; and accordingly allotted a proportionate number of seats to each community in the State-run medical and engineering colleges. In 1951 Srimathi Champakan Dorairajan, who sought admission in a medical college in the State of Madras, complained that she was denied admission on the ground that she was a Brahmin because more meritorious Brahmin candidates already filled the seats meant for that community. Therefore, she registered her case\(^{290}\) before the Madras High Court challenging the constitutionality of the communal G.O as \textit{ultra vires} of the Constitution.

The advocate General of the State of Madras justified the Communal G.O, because he pointed out that its objective was to afford facilities to backward classes to get into higher education for their advancement in the society. The Madras High Court, however, declared the communal G.O void as it contravened clause (1) of article 15 of the Constitution that prohibits discrimination on the grounds only of religion and caste. The Madras High Court observed that in the present case, the classification was solely based on the petitioner’s caste and religion and, therefore, the Court concluded that the “Communal G.O … flies in the face of article 15 (1) of the Constitution”.\(^{291}\)

On appeal, the Supreme Court favoured the decision of the Madras High Court.\(^{292}\) The Supreme Court, however, examined the case under clause (2) of Article 29,\(^{293}\) since the impugned G.O came under the admission policy of the Government of Madras in educational institutions run by the State. The Supreme Court then observed:

The right to get admission into any educational institution of the kind mentioned in clause (2)…is not to be denied to the citizen on grounds only of religion, race, caste, language or any of them. If a citizen… has the academic qualifications but is refused admission only on grounds of religion, race, caste, language or any of them, then there is a clear breach of his fundamental right.\(^{294}\)

Under these judicial observations within the purview of article 29 (2), the Supreme Court declared that the Communal G.O was void because its implementation amounted to discrimination only on grounds of religion and caste.\(^{295}\)

As a sequel to this decision\(^{296}\) of the Supreme Court, clause (4) was added to article 15 to empower the State to enact special provision for the advancement of the socially and educationally backward classes of the citizens as directed by article 46 of the

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\(^{289}\) \textit{The State of Madras v. Champakam Dorairajan}, (1951) SCJ 313.

\(^{290}\) \textit{Champakam Dorairajan, Smt v. The State of Madras}, ILR (1951) Mad. 149.

\(^{291}\) \textit{Ibid.}, at 197.

\(^{292}\) \textit{The State of Madras v. Champakam Dorairajan}, (1951) SCJ 313.

\(^{293}\) “No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.” Clause (2) of article 29, Constitution of India.

\(^{294}\) \textit{The State of Madras v. Champakam Dorairajan} (1951) SCJ 313, at 315,316.

\(^{295}\) \textit{Ibid.}, at 317.

\(^{296}\) \textit{The State of Madras v. Champakam Dorairajan} (1951) SCJ 313.
Constitution. It is to be noticed, at this point of our investigation, that the backwardness of some sections of people is closely connected with caste and religion to which they belonged. In instances of this sort, religious freedom must give way to the operation of the enabling provisions for affirmative action, which is appropriate to the objectives of the welfare State as intended by the framers of the Constitution.

Hence, clause (4) of article 15 is an enabling provision to carry forward the objectives of the welfare State in defence of human dignity of the weaker sections of citizens in the society. It does not impose any obligation but only empowers State Governments to take appropriate measures necessary when situations arise to further the cause of social welfare consistent with the progressive enhancement of human dignity in a particular socio-historical context. The affirmative actions permitted by the State in India under article 15 (4) are available to those citizens who come under the classification of backward classes, Scheduled Castes and Scheduled Tribes.

Similar objectives of the welfare State in view, some special provisions benefiting certain sections of citizens have been provided in Articles 330 to 334 in Part XVI of the Constitution. Article 330 provides for the reservation of seats for the Scheduled Castes and Scheduled Tribes in the Parliament, whereas article 332 gives reservation facilities in the Legislative Assemblies. Articles 331 and 333 provide for representation of the Anglo-Indian community in the Parliament and Legislative Assemblies by nomination. Article 334 recommends certain time frame for the termination of these special considerations. These provisions do not amount to fundamental rights. However, like the constitutional intension implied in article 15(4), they are meant to facilitate certain weaker sections of society to regain their rightful place in the plural society, which is consistent with the progress of the nation and civilized thoughtfulness in solidarity with those sections of citizens who haven’t caught up with the national mainstream.

The foregoing study enables us to see the meaning of the right to equality as provided in article 14 of the Constitution. It means equal treatment of equals in equal circumstances. It does, however, permit the State in India, under its constitutional provisions, to provide differential treatment to citizens from marginal sections of the society with the objective of improving their social, economic and educational position befitting to a standard of life worthy of human dignity. The implied principle is that a society is egalitarian when all are treated with respect in their dignity as human persons. This egalitarian principle of the Indian Constitution, when seen in the context of the welfare State, demands the protection of human dignity by promoting the development of all sections of the people. Religion must cooperate in the functioning of the Constitution to achieve its humane objectives.

The Preamble of the Constitution of India and the various provisions of Part III and IV of the Constitution explicitly enunciate that the positive content of the political freedom consists in establishing an egalitarian social order based on the principles of

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297 “The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.” Article 46, Constitution of India.

298 The Supreme Court had the most thorough and thoughtful discussion on the meaning of equality guaranteed in the Constitution of India when it dealt with the concept of ‘classification’ for reservation of jobs in State of Kerala v. N.M. Thomas, AIR 1976 SC 490. In this case, while speaking on classification for reservation, Mr. Justice Mathew distinguished what he called ‘formal’ equality from ‘proportionate’ equality. Formal equality, which means absolutely identical treatment for all persons, would result in equality in law but inequality in fact. Equality in fact, he pointed out, “may involve the necessity of differential treatment in order to attain a result which establishes an equilibrium between different situations.” Ibid., at 513.

299 For explanatory note see V.D. Mahajan, Constitutional Law of India, op.cit., p. 113.

300 Clause (4) of article 15 of the Constitution of India reads: “Nothing in this article or in Cl. (2) of Art.29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.” This clause had been added by the Constitution (First Amendment) Act, 1951, Sec.2.

the welfare State and Democracy. The purpose of the constitutional vision is to create a mighty solidarity of all citizens of India and to safeguard the dignity of the individual as well as to protect the unity and integrity of the nation. In pursuance of these ideals, the State in India has been empowered to enact legal measures for social welfare and reform. Religious beliefs and practices that contravene these legislations, which are intended to promote all round welfare of the people consistent with the progressive enhancement of human dignity, must be redefined and updated in order to create space for these State measures.

For centuries in the past, the Indian society had been a divided society before the law as it was structured on a caste based hierarchical social order according to which human persons in their essential nature are not equal by birth. In this particular social and religious milieu, which seems to be unique to Indian society, article 17 together with article 15 (2) (4) and article 25 (2) (b) have the revolutionary potential to carry forward social reform and to transform the caste ridden Indian society into an egalitarian social order, wherein the inalienable worth and dignity of each individual person as a moral subject is affirmed and protected by the secular law of the Constitution.

1.3.6. Conclusion: A Humanistic Secularism

The preceding study of the secular provisions of the Constitution of India indicates that the framers of the Constitution envisaged a particular form of secularism that is appropriate to Indian ethos as well as responding to the political need of the country. As a political ideology for the governance of the State, the Indian form of secularism stands for the separation of the State from religion, equal protection of all religions – popularly known as respect for all religions (Sarva-dharma-sambhava) – and active opposition to communalism. This particular form of secularism embedded in the secular provisions of the Constitution is not hostile to religion. It also does not marginalize religion from public sphere but the State keeps a principled distance from all religions.

The Constitution, moreover, approves intervention of the State to care for the welfare of religious institutions. By virtue of articles 27 and 290 - A, it would not be constitutionally invalid for the State to extend direct financial assistance even for purely religious purposes, if such assistance is non-sectarian. It also means the autonomy of the State and religion in their proper sphere of function in the society. The State and religion are seen not opposed to each other but in an ambience of harmony and cooperation, because religion is protected, from the humanistic point of view, as an institution to care for an important human need in view of integrated development of the people under the auspices of liberal democratic political system.

302 The preamble of the Constitution refers to it as to promote among all citizens “Fraternity.”
303 See ibid.
304 Article 17 of the Constitution abolishes untouchability. Clause (2) of article 15 prohibits discrimination against any citizen in any public place on the grounds of religion, race, caste, sex or place of birth. Clause (4) of the same article empowers the State for affirmative action for the advancement of socially and educationally backward classes of the citizens or for the Scheduled Caste and Scheduled Tribe. Sub-clause (b) of clause 2 of article 25 empowers the state to make any law providing for social welfare and reform or throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Under this provision, the State can eradicate social practices and dogmas, which stand in the way of the progress of the country.
305 Bipan Chandra, Essays, op.cit., pp. 115-118; Sarla Jhingran, op.cit., pp. 142-143.
307 Some of the State Government and Central Government enactments for state intervention are the following: The Madras Hindu Religious and Charitable Endowment Act, 1951 (Madras Act 19 of 1951); The Bihar Hindu Religious Trust Act, 1950 (Bihar Act 1 of 1951); The Bombay Public Trust Act, 1950 (Bombay Act 29 of 1950); The Mussalman Waqf Act, 1923 (Act 42 of 1923); The Charitable and Religious Trust Act, 1920 (Act 14 of 1920); etc.
308 This has been especially stressed when the Supreme Court of India was appealed to define “matters of religion.” See Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshminadra Tirtha Swamiar of Sri Shirur Matt, AIR 1954 SC 282, at 290; Ratilal Panachand Gandhi v. State of Bombay, AIR 1954 SC 388, at 391-392.
Under the Indian form of secularism, the State is, nevertheless, empowered to intervene with secular practices associated with religion for the purpose of social and religious reform. Likewise, the State in India has wide powers to regulate religious freedom to maintain the public order, morality and health. These measures may contravene the free exercise of religion. On several occasions, the Supreme Court has justified these legislative measures of the State. The free exercise of religion is also subject to the other provisions of the fundamental rights as spelt out in Part III of the Constitution whose objectives are to protect human dignity from violation.

These outstanding features of the secular provisions of the Indian Constitution lead us to classify the Indian form of secularism as humanistic secularism. We qualify it as humanistic, because the constitutional approach towards the separation between religion and State and their co-operation as well as State’s intervention in the matters associated with the free exercise of religion are governed predominantly by some substantive moral and social values intrinsic to human nature, which protect human dignity. From the anthropological point of view, implicit in this humanistic character of the Indian form of secularism is a belief in the inalienable worth and dignity of the human person as a moral subject in one’s self-identity and the community of persons in their distinct


311 In its solemn affirmation, the Preamble of the Constitution of India resolves “to promote among them all [among all citizens of India] FRATERNITY assuring the dignity of the individual and the unity of the Nation.” Preamble of the Constitution of India. In the case of Maneka Gandhi v. Union of India, while commenting on the purpose of the fundamental rights as guaranteed in Part III of the Constitution, Justice P.N. Bhagawati of the Supreme Court of India said, “These fundamental rights …are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent.” AIR 1978 SC 597, at 619.


community identities in the pluralistic society. In other words, the constitutional approach to individuals is seen in terms of dignity and social nature of the person. Human dignity is inclusive of the social nature of the person. This humanistic value significance of the Indian form of secularism is known from the constitutional objectives of making India a secular State.

The first of its objectives is to provide a secular political order that protects religious liberty worthy of human dignity which is also expected to promote a sense of human solidarity among all citizens in the religiously plural society as well as to protect the unity of the nation. On account of this constitutional objective, the Constitution grants separate rights to minority communities, whether based on religion, culture or language, to enable them to live with dignity in their plural community identities. It is because the philosophy of the humanistic secularism of the Indian Constitution believes, that pluralism adds richness to political community as against ethnic or religious regimentation in terms of homogenisation, which leads to totalitarianism.

The second objective is to ensure security to people’s lives and property against religious bigotry and to manage interreligious conflicts, but subject to public order, morality and health and to the other provisions of the fundamental rights, to allow religions to have their proper space in the public sphere. The third objective is to create a social order in a free society on the principles of justice and egalitarian anthropology. In this regard, Constitution prohibits discrimination on the ground of religion, race, caste, sex and place


314 Articles 29 (1) conserves the linguistic and cultural pluralism. Article 30 (1) provides right to all religious and linguistic minorities to establish and administrate educational institutions of their choice.


316 Articles 25 and 26, of the Constitution of India.

317 The Constitutional vision of a civil society on the principles of justice, equality, liberty and fraternity is given in the Preamble of the Constitution of India. The civil liberties in general terms are given in article 19 of the Constitution.
of birth;\textsuperscript{318} and outlaws the practice of untouchability in any form.\textsuperscript{319} Every individual person will have, in that order, an equal right to freedom of conscience and free exercise of religion. The operations of these substantive values through constitutional institutions guide the process of humanisation of the Indian society. These are the benchmark of the philosophy of humanistic secularism embedded in the Indian Constitution as they protect human dignity.

The fourth objective is to empower the State through the law to enact legal measures for social and religious reform.\textsuperscript{320} Some of these legislations may affect religious beliefs and practices in so far as they are in contravention of the measures legislated by the State, which are intended to promote all round human welfare, consistent with the progressive enhancement of human dignity.\textsuperscript{321} In pursuance of this objective, the Central and State Governments in India have carried out social and religious reforms by declaring sati\textsuperscript{322} and untouchability crimes punishable in accordance with law.\textsuperscript{323} The State and Central Governments in India have abolished the practice of child marriage and the devadasi system; introduced the temple-entry rights to Dalits, and declared by law polygamy illegal.\textsuperscript{324} These reforms have been pursued on humanistic grounds to create a social order founded on human dignity and to protect from violation the ordinary life of the citizens so that people may arrange their way of life in a manner worthy of human dignity in a free society.

Hence, the State’s intervention or non-intervention in religious matters is guided by non-sectarian principles. These constitutional principles are in consonance with humanistic ethics, which is intended to promote a life of equal dignity for all in such a way that individuals and communities of people are enabled to relate themselves in the civil society by way of peaceful coexistence.\textsuperscript{325} Therefore, the philosophy of humanistic secularism conditions the principled distance that the State in India keeps from religion, so that people, as individuals and communities in their specific personal and community identities, may benefit the politically defined goods in a manner worthy of human dignity.

\begin{itemize}
  \item[318] Articles 15(1), (2); 16 (1), (2); 29 (2), of the Constitution of India. Articles 14 to 18 of the Constitution of India guarantee the right to equality in general. Article 14 guarantees equality in general. Article 15 prohibits discrimination. Article 16 guarantees equality of opportunity in matters of public employment. Article 17 abolishes untouchability and article 18 abolishes titles other than the military or academic distinctions.
  \item[319] Article 17, the Constitution of India.
  \item[320] Most of these reform measures had been initiated in India by the beginning of the 19th century by Indian Reformers. See R.C. Majumdar, History, op.cit., vol. 10, pp. 86-159, 256-310.
  \item[322] Sati was abolished by law throughout India by 1929. See The Regulation XII of the Bengal Code passed on December 4, 1829. Crf. R.C. Majumdar, History, op.cit., vol. 10, pp. 268-275.
  \item[323] Article 17 of the Indian Constitution abolishes untouchability and declares that its practice in any form is an offence punishable in accordance with law.
  \item[324] The State of Bombay v. Narasu Appa Mali, AIR 1952 Bom 84; Ram Prasad Seth v. State of Uttar Pradesh, AIR 1957 All 411.
  \item[325] Article 25 (1) and article 26 of the Constitution of India.
\end{itemize}
PART TWO

The Christian Concept of Human Dignity:
A Significant Theological Resource
to Further the Cause of the
Humanistic Secular Ethos of India

2. Introduction

Part one dealt with the development of the concept of political secularism in the Western and Indian traditions. In both traditions, political secularism arose in a religiously plural society to protect citizens from religious violence and conflicts. As a political ideology in the governance of the State, secularism in the liberal democratic tradition advocates the separation of the State from religion, guarantees civil liberties and egalitarian political order.

Although the Indian polity is constitutionally structured on liberal democratic principles, the particular form of secularism enshrined in the Indian Constitution is something unique. We have described it as humanistic secularism. Its concept of separation between religion and the State is different from the conventional understanding of a secular State. The State in India is endowed with wide powers to intervene in religious matters on humanistic grounds. It means, as we have discussed it in Part One, the State intervention or non-intervention depends upon which one better protects human dignity in the civil society.

Therefore, the principle of separation amounts to the State keeping a “principled distance” from religion. The idea of “principled distance” is conditioned by its philosophy of humanistic values. These values protect and promote a life of equal dignity for all citizens in the civil society in a manner that the people of diverse community identities are enabled to relate themselves in the civil society by way of peaceful coexistence. Consequently, the constitutional approach to secular policies is centred on human dignity.

In accordance with the research project, the aim of part two is to inquire about the importance of human dignity in the Christian theology and show its significance for dialogue and collaboration with the civil society to advance the objectives of the philosophy of humanistic secularism of the Indian Constitution. This aim is pursued in three ways in three proceeding chapters. Firstly, in chapter four, we investigate the theological development of the idea of human dignity in the history of Christian thought. We do it by researching through the development of theological anthropology based on *imago Dei* in the Bible, Patristic tradition and the Middle Ages. We also look into the contemporary theological trends in their effort to define and defend human dignity, human rights and to protect the integrity of creation in the light of theological anthropology based on the doctrine of *imago Dei*. Our inquiry is not exhaustive but only exemplary to underscore the importance of human dignity in the Christian tradition.

For our research in this chapter, we include the vast corpus of the social encyclicals of the Popes. It is because in addressing social issues, the Popes of the contemporary times relied on insights drawn from the image theology of the human person to defend human dignity, human rights and for the justification of the temporal order for the common good. All these areas have become part of our research for the sole purpose of highlighting the importance of the inalienable worth and dignity of the human person in the Christian thought in so far as every person is created in God’s image, redeemed by Christ and called to live in communion with God and in solidarity with one another in the civil society.

Secondly, in chapter five, we study the relevant documents of the Second Vatican Council. It is due to the fact that, for the first
time in the history of the Ecumenical Councils, the Second Vatican Council in its Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, developed a theological anthropology in a systematic way based on *imago Dei* but in the horizon of Christology. This conciliar theological anthropology of Vatican II is centred on human dignity. Its purpose is to dialogue with the secular world in defence of human dignity and collaborate with the civil society in building up a civilization centred on human dignity. In the same chapter, we also study the conciliar document *Dignitatis Humanae* in which the Church developed, for he first time, its doctrines of religious freedom and constitutional State, all based on human dignity and in defence of it. Its purpose is also to dialogue with people of all persuasions in the civil society for the cause of human dignity. The cumulative results of our investigation lead us to identify the centrality of human dignity in the Christian thought.

Thirdly, in chapter six, which is the concluding chapter of our research project, we collate the findings of our research on the centrality of human dignity as seen in the philosophy of Indian secularism as well as in the Church’s teachings with a special emphasis on the Church’s teaching regarding religious freedom and the constitutional State as given in *Dignitatis Humanae*. We highlight their salient features. We indicate a common anthropological approach underlying in both systems of thought. This we refer to as “relational anthropology” and interpret it theologically. Consequently, we also point out the value commonality found in both systems of thought. This leads us to conclude that, following the conciliar path of dialogue with the civil society, human dignity can be a significant concept for the Indian Church to engage in dialogue and collaboration with the civil society to further the constitutional objectives of the humanistic ethics for the humanization of the civil society in defence of human dignity.

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**CHAPTER FOUR**

**The Image of God Doctrine and Human Dignity in the Scripture and Tradition**

**2.4. Introduction**

The concept of human dignity received an explicit affirmation as a theological category in the Catholic social teaching tradition. The term ‘Catholic social teaching’ refers to the hierarchical documents of the Catholic Church dealing with matters of social, economic and political importance from the point of view of Catholic faith and morality, which began with the Leonine encyclical *Rerum Novarum* published in 1891.1 In his Encyclical Letter *Sollicitudo Rei Socialis*, Pope John Paul II2 defined the Catholic social teaching tradition as a “doctrinal corpus” updated by the Magisterium of the Roman Pontiff, beginning with the encyclical *Rerum Novarum*.3

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3 *Ibid.*, n. 1. Pope John Paul II gave an explicit definition to the social teaching of the Church and said, “The Church’s social doctrine is not a “third way” between liberal capitalism and Marxist collectivism, nor even a possible alternative to other solutions less radically opposed to one another: rather, it constitutes a category of its own. Nor is it an ideology, but rather the accurate formulation of the results of a careful reflection on the complex realities of human existence, in society and in the international order, in the light of faith and of the Church’s tradition. Its main aim is to interpret these realities, determining their conformity with or divergence from the lines of the Gospel teaching on man and his vocation, a vocation which is at once earthly and transcendent; its aim is thus to guide Christian behaviour. It therefore belongs to the field, not of ideology, but of theology and particularly of moral theology.” *Ibid.*, n. 41.
These documents teach general ethical principles about just social order and deal with issues involving mostly matters of social, economic and political affairs. They also comment on matters of religion, culture and family.\(^4\) As these documents contain magisterial proposals for Catholics, they maintain a theological approach to social ethics. The logical grounding of the theological perspective to social ethics is anthropology. Pope John Paul II holds, “[T]he guiding principle of Pope Leo’s encyclical, and of all the Church’s social doctrine, is a correct view of the human person and of the person’s unique value.”\(^5\) Two fundamental anthropological principles guiding the Catholic social teaching are the dignity of the human person and the social nature of the person.

Vatican II’s document, The Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, which provides us with the most systematic theological treatment of the foundations of Catholic social teaching, insists that these two anthropological principles are grounded in the theology of creation of human persons in the image of God as given in the biblical revelation and as developed in the tradition of the Church.\(^6\) Further, the Second Vatican Council in its Declaration on Religious Freedom, *Dignitatis Humanae*, applies the theology of human dignity as developed in *The Pastoral Constitution on the Church, Gaudium et Spes*, as the foundation for the rights of the individual persons and of communities to civil freedom in matters religious as well as for the constitutional order of the political community, the State.\(^7\)

Hence, in this chapter we shall present an overview of the image theology of the human person and its significance to human dignity as developed in the tradition of the Church. We begin our inquiry with the biblical sources. We trace its developments and implications for the theological understanding of human dignity in the classical and contemporary theological thought. For the purpose of our study, we investigate mostly the Catholic theological tradition, though in some instances we have integrated the thought of Protestant theologians. We have expanded the ambit of our study to touch upon some contemporary theological trends, namely the theology of liberation, feminist theology and eco-theology. And finally, we study the vast corpus of the contemporary papal encyclicals beginning with *Rerum Novarum* of Leo XIII to the present day social encyclicals. This is to give a historical updating of the Church’s teaching on human dignity as well as to substantiate the importance of human dignity in the Christian tradition.

### 2.4.1. The Significance of Image of God Doctrine to Human Dignity

The concept, “*Imago Dei,*” is explicitly referred to human persons only in three passages in the Old Testament. All of them occur in the Book of Genesis, namely Gen 1:26-28; 5:1-3 and 9:5-6. These texts come under the Priestly account of Genesis. Let us present these texts here for our study. The first application of the concept of image of God to human persons is given at a place where the Hebrew thought had to deal with the mystery of the creation of human persons. So in the story of creation in Genesis 1:26-28, after the creation of the living beings, God said:

> Let us make man in our image, after our likeness; and let them have dominion over the fish of the sea and over the birds of the air, and over the cattle, and over all the earth, and over every creeping thing that creeps upon the earth.

So God created man in his own image, in the image of God

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\(^5\) John Paul II, Encyclical Letter *Centesimus Annus*, 1 May 1991 (Vatican Polyglot Press). The Pope insists, “It follows that the Church cannot abandon man, and that ‘this man is the primary route that the Church must travel in fulfilling her mission…the way traced out by Christ himself, the way that leads invariably through the mystery of the Incarnation and the Redemption.’” Ibid., n. 53.

\(^6\) In one of its general conclusions *Gaudium et Spes* states that as befits to a conciliar pronouncement most of what it sets forth in the Constitution is “teaching already accepted in the Church”. It has integrated in its reflection the Catholic thinking as laid down in the vast corpus of the encyclicals on social issues from Leo XIII to Paul VI (See GS, article 91). In defining the dignity of the human person, the Pastoral Constitution *Gaudium et Spes* refers to Gen.1: 26 ff; Psalms 8: 5 ff and also to Patristic tradition as well as to scholastic theology (See GS, articles 12, 21, 39, 25, etc).

\(^7\) DH, article 2.
he created him; male and female he created them. And God blessed them, and God said to them, “Be fruitful and multiply, and fill the earth and subdue it; and have dominion over the fish of the sea and over the birds of the air and over every living thing that moves upon the earth. And God blessed them, and God said to them, “Be fruitful and multiply, and fill the earth and subdue it; and have dominion over the fish of the sea and over the birds of the air and over every living thing that moves upon the earth.”

The second passage in Genesis 5:1-3 appears after the fall of Adam and in the context of the story of the descendants of Adam. The author writes:

This is the book of the generations of Adam. When God created man, he made him in the likeness of God. Male and female he created them, and he blessed them and named them Man when they were created. When Adam had lived a hundred and thirty years, he became the father of a son in his own likeness, after his image, and named him Seth.

The third passage in Genesis 9:5-6 is given after the story of the Flood and in the context of the Noahic covenant. God promises protection to Noah and gives him dominion over all creatures; and then God prohibits homicide and says to Noah:

For your lifeblood I will surely require a reckoning; of every beast I will require it, and of man; of every man’s brother I will require the life of man. Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his image.

2.4.1.1. Image of God Central to Biblical Anthropology

The image of God concept is central to biblical anthropology although its explicit references are only few. Many Bible scholars in their findings have emphasised it. Gerhard von Rad points out that the biblical thought of the creation of the human persons in the image of God appears only, as it were, on the margin of the Old Testament insight, because Old Testament emphasises the absolute holiness of God before whose presence human persons are insignificant. But the image of God passage does appear at a place where the Old Testament thought had to deal with the mystery of the origin of human persons. In other words, divine transcendence and exaltation over nature is of supreme importance in Hebrew thought. This, however, did not allow the Hebrew thinkers to categorise human persons as wholly one with nature as being submerged in it. Hebrew thought also perceived that human persons are spiritual personalities - embodied spirits - and, therefore, in their manner of creation, they are raised above the order of nature by virtue of their special relationship to God.

A comparative study between the creation accounts of Genesis chapter 1 of the Priestly tradition written around the fifth century BC, and Genesis chapter 2 of the Jahvist tradition written about four hundred years before the Priestly account would clarify this point. The Jahvist account of creation is primeval and anthropomorphic in character in which God is depicted as directly involved in creating the world.

Unlike the Jahvist, the Priestly account places the emphasis on the distance that separates God from the world of his creation. Hence the Priestly account describes creation and all categories of creation through the Word of God. But before the creation of human person the scene and the manner of creation show a visible change: there is a pause, a counsel is taking place in the heavenly places, and then humans are created in God’s image. Commenting on Gen. 1: 26-27, Von Rad says:

On the top of this pyramid stands man, and there is nothing

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between him and God: indeed, the world, which was in fact made for him, has in him alone its most absolute immediacy to God. Also, unlike the rest of Creation, he was not created by the word; but in creating him God was actuated by a unique, solemn resolve in the depth of his heart. And in particular, God took the pattern for this, his last work of Creation, from the heavenly world above. In no other work of Creation is everything referred so very immediately to God himself as in this.10

Elsewhere he further states:

The divine likeness is not to be found either in the personality of man, in his free Ego, in his dignity or in his free use of moral capacity etc... Man is here designated as a creature whose being is not from below but who belongs by nature to the upper regions.

Thus, the Priestly tradition highlights the human person’s otherness from the rest of creation and the person’s affinity with God that is the foundation for human dignity.

At this point of our study, it is worthwhile to brief on the findings of Walter Eichrodt, another bible scholar, whose findings also underline the understanding of the Hebrews as suggested by von Rad. According to Eichrodt, for the people of the Old Testament, God was supreme over nature. It was this religious conviction that saved them from any attempt at mystical union with a supposedly divine power of nature by means of sexual orgy or worship of idols. At the same time they perceived that humans were endowed with spiritual qualities that differentiated them from nature but uniquely related them to God. This was the reason for the dignity of human persons as responsible spiritual beings.12

The God of Israel is “One”13 and he cannot be represented by any idol or image. This is central to Israel’s creed.14 Yet God created human beings in his own image and likeness. This insight has tremendous value potential for biblical anthropology, which stresses on the dignity of human persons. Human beings are not just like other creatures, but they are singled out with a designation that is similar to God. It would be our task now to identify in what might seem to consist in the similarity of human beings to God. Hence, we proceed to study the meaning of the double designation accorded to human beings: that they are created in the “image and likeness of God” as given in Genesis 1:26.

### 2.4.1.2. The Meaning of God’s Image and Likeness

In the Priestly documents of the creation story, the designation of human beings is given in two different Hebrew terms, tselem and demuth. These are generally rendered into Greek as eikon and homoioima or as homoiosis; in Latin as imago and similitude; and in English as ‘image’ and ‘likeness’. In our study of the meaning of these terms, we begin by scanning through the contributions of the scholars.

In his finding about the rendering of the term Demuth in the Septuagint and in the Latin Vulgate of the Old Testament, D.H. Preuss writes:

The LXX usually renders demuth by homoioima, <likeness>, form, appearance (14 times), but we also find homoiosis, <likeness, resemblance> (5 times), eikon, <image, likeness> (once, Gen.5: 1), idea, <appearance, aspect, form> (once, Gen.5: 3), and homoios, <like> (once Isa. 13:4), while the Vulgate predominately translates it by similitude, <likeness> (19 times).15

It is fascinating to note, as described by Preuss, that the Septuagint translates the term Demuth in some places as image

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13 Dt.6: 4-9.
14 See the Decalogue, Ex. 20: 1-18; Dt.5: 1-21.
(eikon) and in other places as likeness (homoioma). Nevertheless, scholars stress that tselem primarily means image (eikon) in the sense of an artistic representation, a statute or an impression on a coin. Likewise, Demuth primarily means likeness in the sense of ‘something like.’

They also suggest that ‘Image’ (tselem) denotes more of a physical representation of something whereas ‘likeness’ (Demuth) tones down its starkness and thereby one complements the other.

This has been further explained by D. H. Preuss in his study of Gen.1: 26 and 5:1, 3, where he describes:

[The use of Demuth in the story of early man (Gen.1: 26; 5:1, 3) has always been of particular interest. Demuth is used here with tselem, < image >... [It appears after tselem in Gen. 1:26 and before tselem in 5: 3; while tselem occurs alone in 5:1. This interlacing and substitution suggest that very little distinction can be made between the two words. In 1:26 the terms are used with the prepositions be, < in >, and ke, < after > (the latter with Demuth), while in 5: 1, 3 Demuth is used with be (in v.3 tselem is used with ke). This dovetailing opposes too strong a differentiation between Demuth and tselem...It also opposes an overemphasis on the use of the words with prepositions in contrast to their use alone.]

We have here in the double designation of human beings as image and likeness of God, the use of the linguistic style known as the Hebrew “parallelism” in which the second term defines more closely than the first what is meant by image of God. So, human beings are created in the image of God means that they are created in God’s likeness.

We are in a position to state from what we have seen in our preceding analysis that like God - in an analogous sense (more unequal than equal, but still real), human beings are endowed with some characteristics of God. Everything one can say of God also has a meaning for human beings. This implies that the quest for the meaning of human beings, according to the Bible, can only be answered from a comparison with God and in relationship to God. Walter Kasper has theologically substantiated this aspect of human nature. In his research on theological anthropology in relation to social ethics, Walter Kasper points out, “Man is a being related to God, a being corresponding to God, God’s conversation partner, his ally, addressable by God and addressing God.”

This has been also succinctly brought out by Walter Eichrodt in his observation of the meaning of image of God as referred to human beings by the author of the Priestly document of creation account. He commented:

If we remember the whole manner of and fashion in which the Godhead is pictured in Genesis 1, how he appears from the first lines as conscious and powerful will, and continually bears witness to himself through insistent purposive creation, we shall be forced to find man’s likeness to God as indicated by the author, in his spiritual superiority, which expresses itself not only in his higher rational endowment, but above all in his capacity for self-consciousness and self-determination; in short, in those capacities which we are accustomed to regard as typical of personality...[T]he gift to man of the imago Dei in the formal sense indicated by us implies nothing less than a connection with God through which man, even as a sinner, remains a rational being capable of spiritual fellowship with God. His pre-eminence over all other creatures consists in the fact that as a conscious self he can be reached by God’s word, and thereby called to responsibility.

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17 D.H. Preuss, op.cit, p. 259.
20 As quoted in D. Cairns, op.cit., p.29.
These findings enable us to corroborate the concept of human person in the Old Testament thought. It means that in so far as endowed with spiritual qualities analogous to God human beings are persons before God; and as such they are capable acting on God’s behalf, and responsible to him. As conscious, free and responsible beings, human beings order their lives; shape their destiny and that of creation. Therefore, they participate in the work of God as referred to in Genesis 1:26b and 28. As God’s counterpart (collaborators) on earth, they are God’s partners in dialogue. God intends to speak to them and expects their response. God sees God’s self reflected in them and, therefore, they are the appearance (presence) of divine splendour and glory on earth.  

In like manner, human persons are truly human only when they tend towards God and reflect the divine purpose in their entire lives. Hence, biblical anthropology sees the meaning of human dignity theologically; especially it sees the greatness of human beings as partners of dialogue with God. For, as von Rad insists, “Israel very seldom spoke of man. She always sees men vis-à-vis God, either turning to him or turning away from him.”  

This divine endowment is the reason for the dignity, nobility and majesty with which God has created them as recounted by the Psalmist.  

2.4.1.3. Universalization of the Divine Image in Humankind

Scholars are of the opinion that Hebrews borrowed the imago Dei concept from the divine kingship ideology of the ancient Near Eastern cultures, especially from Egyptian royal theology, where the king was apotheosised. It was held that the king was the image of God, the one who mediated between the reigning deity of the kingdom and the people. The king was the reigning copy of God on earth, his deputy, his reflection and his mode of appearance in the world.

According to the representational motive, images were often thought to represent and even to mediate the presence of one who was physically absent, whether this absent reality was the conquering king whose throne was installed in a distant land or a deity whose abode was in one of the remote mountains of the gods. By extension, the concept of the imago Dei also - as used in Genesis 1:26-28, inculcates the value that it is not the king alone, but every human person in his or her nature as being human is the image of God. They are born equal in their nature as being human and, therefore, mediate within creation the immanence of the transcendent creator.

Another anthropological value implied in the idea of the creation of human beings in the “image and likeness of God” is the social nature of human persons. To be created in the image and likeness of God means that human persons are called to live in a community and communion with the other, which is constitutive of being human. Scholars are unanimous that Adam who was created in the image and likeness of God represents the entire human family. This has been reiterated by the author of the Priestly account of Genesis as stated in Genesis 1:27b, which reads, “[I]n the image of God he created him; male and female he created them”. This means, as image of God, being human means being-in-relationship-with. In other words, as Stanley J. Grenz suggests in his research article, a human person is a “relational self.” In like manner, the difference of the sexes and their equality as being human belong to the very image of God in human persons as given in Genesis 1:27b.

The narrative style of the creation story of man and woman as
given in Genesis 1:27b allows us to state that it is not the human person as an individual only, but as individual-in-community who corresponds to God, because in this community of men and women God finds his own likeness. Likeness to God cannot be lived in isolation but can be lived only in community. This means that being human is being-in-solidarity-with-others in someway. Hence, the biblical narrative of human beings indicates that from the very outset, human persons are social beings.28

John C. Dwyer further suggests that the social nature of humankind as referred to in Genesis 1:26-27 implies, “We become human persons in the act of responding to God and to other human persons and to the world… which is the context in which we are called to live our lives as persons.”29 Hence, Genesis 1: 26-28 stands at the pinnacle of the biblical creation narrative. Stanley J. Grenz suggests that the Hebrew Bible posits a God who creates a world that is different and external to God’s being and then places human persons within that creation as a creaturely representation of the transcendent deity.30 The first creation story (Gen.1; 26-28) brought out a revolution in thought by universalising the divine image in all human beings. Consequently, it contained affirmative value potential for human dignity, freedom and equality as well as for the importance of social nature of human beings.31

2.4.1.4. Image of God Intrinsic to Human Nature

The second and third texts that provide us with explicit reference to imago Dei designation to humankind are Genesis 5:1-3 and 9:3. In these passages, the author of the Priestly tradition emphasizes that in spite of sin and human vulnerability, God remains committed to the special relationship with which God created humankind in God’s image. This has been highlighted in the story in a manner that after the transgression Adam became father and passed on the divine image and likeness to his descendants (Gen 5:3). Similarly, after the deluge, God promises protection to Noah and his descendants (Gen 9:6b) and grants them dominion over nature (Gen 9:7).

In his commentary on the Book of Genesis, von Rad insists on this theological insight. He writes:

According to Gen.v.3, Adam begot Seth in his own likeness after his image. This means that God authorized man to transmit this, his supreme dignity, along the way of continuing procreation of the generations. So it cannot be said that the image of God is lost - all the less as its existence still comes into account in the days of Noah (Gen.ix.6b). Certainly, the story of the Fall tells of grave disturbances in the creaturely nature of man. But as to the way in which these affected the image of God in man, the Old Testament has nothing explicit to say.32

This means that sin and all kinds of human estrangement from God may certainly pervert humans’ relationship to God, but not God’s relationship to them. God resolved God’s relationship to human persons as God’s image, which is a divine endowment,33 which can never be withdrawn except by God. Even though humans have estranged themselves from God, yet they remain wholly and entirely God’s image. Therefore, even the most inhuman person cannot escape the responsibility of being God’s image.34 All categories of people - the physically and mentally deformed ones, are image of God in the fullest sense of the word. Such is the greatness of dignity with which God created human persons.

Human dignity cannot be lost and it is indestructible on account of God’s abiding relationship to humankind as God’s image. Nevertheless, under the conditions of universality of sin, the state

30 Stanley J. Grenz, op.cit., p.43.
31 J.Moltmann claims that this passage had a ‘democratising’ effect throughout the whole of Jewish and Christian political history. See J. Moltmann, op.cit. p. 219.
33 Gen. 1: 26a.
34 J. Moltmann, God in Creation, op.cit., p. 223.
of humankind as God’s image is seen theologically as grace, because it is the free gift of God’s faithfulness to humankind that keeps them as God’s image in spite of their estrangement.35 This gracious act of God’s faithfulness to the family of humankind as God’s image is ordained towards the mystery of the person of Jesus Christ in the divine plan of salvation, in so far as in him human race is called to encounter the incarnate image of the invisible God and in whom all things were created, renewed and ordained to their original destiny.36

2.4.2. Image of God and Christocentric Anthropology

In the New Testament, the meaning of *imago Dei* attains christological significance. The application of the image of God concept in the New Testament is complex. It is used often with christological meaning, though some passages render it with the Old Testament meaning. A detailed treatment of this matter would exceed the scope of our work. It is still necessary to present an overview of the image doctrine in the New Testament, because it has influenced the Christian theology of the human person greatly, especially as developed in Vatican II’s document, Pastoral Constitution on the Church in the Modern World, Gaudium et Spes.37


36 Jn. 1: 1-3; 1Col.1: 15 f; Eph.1: 10 f; Heb. 1:2-3. In all these passages we have what is known as Logos Christology or Wisdom Christology or Cosmic Christology. All these Christological reflections are based on the concept of ‘archetypal image’ as referred to in the Old Testament: see Proverbs 8:22-23,30-31.


The *imago Dei* concept is used in the New Testament more often than in the Old Testament, though its frequency is not as common as to be a dominant theological motive. Most of the direct application of the concept occurs in the Pauline literature.38 Paul uses it for two purposes, namely to emphasize Christ’s unique divine sonship and the universality of his redeeming work who in his risen glory reflects the true image of God, and that humankind is predestined to be conformed to the image of Christ.39 Moreover, in the Pauline writings the concept acquire a profound theological meaning with christological, soteriological and eschatological significance that we proceed to study in the proceeding sections. It is because in the Pauline writings the concept attain rich theological meaning to understand human dignity.

Apart from these Pauline usages of the image concept with specific christological meaning, there are three New Testament passages where the image concept appears in substantial agreement with Old Testament meaning, namely humankind in general as created in God’s image. In 2 Cor 11:7, Paul uses it in a colloquial style as it was held at that time to refer to man in contra-distinction to woman to be the image.40 It is also found quite explicitly in one of the passages in the Letter of James. Among all authors of New Testament writings, James remains both in his language and thought

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38 Commenting on the frequency of the use of the concept ‘*eikon*’ in the New Testament, John Reumann points out, “When we move to the New Testament, references are more frequent than in the Old, but still not so common as to make the image of God a statistically prominent theme. *Eikon*, e.g., occurs twenty-three times, but the three references in the Gospels are to the image or likeness of the emperor in a coin (Mark 12:16 and parallels), and the ten examples in the Apocalypse refer to the image of a deity or idol (the beast and its image, Rev. 14:9). The really significant occurrences are in the Pauline epistles (nine times) and Hebrews (once)” J. Reumann, *op.cit*. p. xiii.

39 In the New Testament Christ is twice said to be the likeness or the image of God (2 Cor. 4:4 and Col.1: 15). The common use in the Pauline literature is that humankind is said to be predestined to be conformed to the image of Christ (Rom.8: 29) or changed into his likeness (2 Cor.3: 18) or renewed after the image (Col.3: 10). D. Cairns, *op.cit.*, p. 60.

the man of the Old Testament thought. In his Letter (James 3:9), James comments on the dangers of the tongue and says, “With it we bless the Lord and Father, and with it we curse men, who are made in the likeness41 of God”.

The third passage where the concept, ‘image of God’, is referred to is given in the Synoptic Gospels.42 It occurs in the story of paying tax to Caesar in which the ‘image of God’ does not come into view directly but appears to make a clear reference to it. In this controversial story-setting between Jesus and the Pharisees, Jesus asked for a denarius and inquired, “Whose likeness and inscription was this?” They said to him, “Caesar’s.” Approving their reply, Jesus said to them, “Render to Caesar the things that are Caesar’s, and to God the things that are God’s.”43 In his interpretation of this passage, David Cairns observes that the unspoken argument of Jesus is that, “Give to Caesar the taxes that are his due. But the image that is printed on you is not Caesar’s, but God’s; therefore you yourselves belong to God.”44 Here we have the Old Testament use of the concept ‘image of God’ as given in the Book of Genesis.

2.4.2.1. Image of God and Christ’s Divine Sonship of God

We attempt to study, in what follows, the subject of our interest in the writings of Paul. In his Second Letter to the Corinthians,45 Paul designates the concept “likeness of God” to Christ and connects it with the glory-christology or exaltation-christology of the Easter experience that is common in the New Testament writings.46 For Paul, the Christ of the Easter experience is the true image of the invisible God, because he radiates the very glory of God. In this Pauline perspective, image and glory are one and the same.47

Hence, Paul claims that as Son of God, Christ is the true image of God on earth. Paul does not present a speculative theology on the ontological nature of Christ in his divine sonship, but gives a narrative theology providing us with an implicit allusion to the creation story of humankind as given in Genesis 1: 26-28 and as recounted in Psalm 8. Therefore, Paul writes that the Gospel proclaims the appearance of the glory of God in the face of Christ who is the “likeness of God” (2 Cor 4:4).

In his Letter to the Colossians,48 Paul49 retro-projects the christology of glory-image-sonship combination to the origin of creation with the aim of highlighting not only Christ’s pre-eminence over all creation in heaven and on earth but also of extolling his centrality in creation and redemption. This has been brought out in the famous Pauline text on the christological hymn, which reads:

He has delivered us from the dominion of darkness and transferred us to the kingdom of his beloved Son, in whom we have redemption, the forgiveness of sins.

He is the image of the invisible god,50 the first-born of all creation; for in him all things were created, in heaven and on earth, visible and invisible, whether thrones or dominions or principalities or authorities - all things were created through him and for him. He is before all things, and in him all things hold together. He is the head of the body, the church; he is the beginning, the first-born from the dead, that in everything he might be pre-eminent. For in him all the fullness of God was pleased to dwell, and through him to reconcile to himself all things, whether on earth or in heaven, making peace by the blood of his cross. (Col 1:13-20).

Commenting on Col 1:15-20 and seeing in it a similarity of christological intent with that of the Johannine Prologue, Stanley J. Grenz in his seminal study observes:

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41 The term used for likeness is homoiosis. Crf. D. Cairns, op.cit., p.38.
42 Mt.22: 15-22; Lk.20: 19-26; Mk.12: 13-17.
43 Mk.12: 16b-17.
45 2 Cor.4: 4-6.
49 On the contentious issue of the authorship of Colossians, see James D.G. Dunn, The Epistles to the Colossians and to Philemon (Michigan, Grand Rapids, Eerdmans, 1996), p. 35 ff.
50 Italics are ours for emphasis.
Similar to the great Johannine declaration, “the Word became flesh and lived among us” (John 1:14…), Paul draws together into a single whole the entire life of Jesus as it centres on his resurrection as the prolepsis of the eschaton (v.18) and on his death as God’s great act in reconciling all creation (v.20). The apostle’s intent is to declare that this historical life is the dwelling place of the fullness of deity, understood in accordance with the wisdom tradition and as the fulfilment of the creation story. Or stated in the opposite manner, the entire narrative of the invisible God’s self-disclosure through the divine wisdom, together with the Genesis story of humankind being created in the divine image, can only be rightly understood when viewed in the light of the narrative of Jesus who as the preeminent Christ is the eikon of God.51

It is interesting to note that just as Christ is designated as the “image (eikon) of the invisible God” in Col 1:15, the author of the Letter to the Hebrews in the introductory verses says that Christ “reflects the glory of God and bears the very stamp (charakter) of God’s nature” (Heb 1:3). So, in both passages (Col 1:15 and Heb 1:3), the glory, which is absolutely unique, is ascribed to Christ to designate his unique dignity as the divine Son of God. For, in the New Testament whenever the concept of image of God is designated to Christ, it stands for his divine sonship of God and, therefore, his equality with God.53

Hence, by proclaiming that Jesus is the reflection of God’s glory and that he is the one who bears the very stamp of God’s nature, the author of the Letter to the Hebrews fuses in Hebrew 1:1-4, the glory-image-son christology to declare that Jesus Christ who as the divine Son is the visible manifestation of the image of the invisible God. According to the Letter to the Hebrews, moreover, it is in and through Jesus’ historical mission of his saving death on the cross on behalf of sinful humankind that the image or the stamp (charakter) of the invisible God is made pre-eminently visible.

In other words, the redeeming death of the Son incarnate is the supreme event of visibilization of the image of God. This combination of the glory-image-son christology as developed in Col.1: 15-20 and Heb.1: 1-4, resonates with the Incarnation christology of the Johannine prologue in which John gives witness to the world that it is in the divine Son incarnate, that God’s real glory has been made manifest. These texts emphasise that in and through his redemptive mission, Jesus Christ fully reveals God in so far as he is the divine Son incarnate and, therefore, he is the incarnate image of the invisible God par excellence. This is central to all New Testament christology.56

2.4.2.2. The Image of God and New Humanity in Christ

The Pauline theology expands the significance of the image christology to soteriology and eschatology, because as the perfect image of God, Jesus Christ the divine Son incarnate, in fulfilment of God’s intent for humankind from the beginning of creation, recreates and renews the sin-ridden image of God in humankind. Consequently, the New Testament narrative of the image of God does not end with christology but finds its completion in the eschatological narrative of new creation in the glorified Christ.57 The restoration of God’s image in the fallen or estranged humanity comes about in and through the fellowship of believers with Christ (Rom 8:29). For Jesus Christ is designated by Paul in his writings who as the divine Son is the visible manifestation of the image of the invisible God. According to the Letter to the Hebrews, moreover, it is in and through Jesus’ historical mission of his saving death on the cross on behalf of sinful humankind that the image or the stamp (charakter) of the invisible God is made pre-eminently visible.

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51 Stanley J. Grenz, op.cit., p. 45.
52 “In many and various ways God spoke of old to our fathers by the prophets; but in these days he has spoken to us by a Son, whom he appointed the heir of all things, through whom also he created the world. He reflects the glory of God and bears the very stamp of his nature, upholding the universe by his world of power. When he had made purification for sins, he sat down at the right hand of the Father, having become as much superior to angels as the name he has obtained is more excellent than theirs.” (Heb. 1:1-4).
54 John 1:1-18. In this regard, Jn.1: 14 is emphatic, which reads, “And the Word became flesh and dwelt among us, full of grace and truth; we have beheld his glory, glory as of the only Son from the Father”.
55 For the parallel use and meaning of the terms image, likeness and glory of God in the writings of the New Testament, see in D. Cairns, op.cit., pp. 45-52.
56 See on Christocentrism and Theocentrism in J. Dupuis, op.cit., pp.3-4.
57 In 1 Cor. 15:49, St. Paul connects the imago Christi with the resurrected new humanity by means of the Adam-Christ typology, with its correlate last-Adam Christology.
as the last Adam (1 Cor 15:45b) in contra-distinction to the first Adam of Gen 1:26-28, who represents the entire humanity since in him God’s image has been tarnished by sin.

In a similar vein, in his Letter to the Romans and his First Letter to the Corinthians, Paul uses the Adam-Christ typology. Paul’s theological motive is to highlight the universal restoration of the God’s image in humankind by the redemptive death of Christ. Hence, in Romans chapter five, he explains that the first Adam was made in the image and likeness of God and was to pass on that image unblemished to his descendants. But the first Adam sinned, and handed down only a flawed image of God, that is, a tainted human nature to his progeny.

In Romans chapter five, Paul claims that just as the first Adam brought the universal reign of sin and death, so through Jesus Christ, the last Adam, grace super-abounds and reigns unto life everlasting (Rom 5:12-21). Hence, those who are in fellowship with Christ are conformed to his image, that is, conformed to the image of his Son (eikon tou huiou autou), in order that Christ might be the first-born among many brothers (Adelphoi) (Rom 8:29). This means, as Leon-Dufour comments, in the fellowship with Christ, all humankind become children of God and, therefore, come to enjoy once again the dignity of God’s children.

In 1 Cor 15:20-28, we encounter once again the Pauline image of Adam-Christ typology where Paul further stresses on Christ’s resurrection as the guarantee of the eschatological general resurrection and the consummation of creation in the pleroma Christi (fullness of Christ’s glory) so that God may be everything to every one (v.28), which is the telos, the end, towards which the Old Testament creation narrative points. In vv. 44-49, Paul once again uses the Adam-Christ typology to set forth Jesus’ risen body as the paradigm for the divinely ordained destiny of humankind created in God’s image.

For the purpose of bringing out the eschatological meaning of the Adam-Christ typology, Paul presents a narrative in antithetical style about the physical body (psychikon soma) and spiritual body (pneumatikon soma) and then portrays a contrast between Adam and Christ as the representations of these two corporeal realities (1 Cor 15:44). In this manner, the Pauline theology presents Christ as the true image of God imparting his supernatural characteristics to his spiritual progeny – that is, to his redeemed community, in a manner similar to Adam passing on his natural traits to his physical offspring.

Hence, in the New Testament theology, the realisation of the meaning of humankind’s original status as creatures in God’s image begins with life in Christ, which is justification and divine filiation – that is, making them children of God in the Son (cf. Rom 8:17). The finality of this spiritual process of filiation is the eschatological glorification of the entire person in the glory of the Risen Christ. This realisation is communitarian, universal as well as cosmic in character. Such is the New Testament understanding of the greatness and dignity of human beings created in the image and likeness of God (Gen 1:26-28).

2.4.2.3. Image of God as Children of God

Our study of the biblical teaching of human dignity as image of God would not be complete until we have seen how this theological thought is reflected in the central teaching of Jesus. The Gospels don’t provide us with Jesus’ direct sayings about image of God. Our position, nevertheless, is that Jesus’ teaching of the Fatherhood

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58 Rom.5: 12-22; 1 Cor. 15, especially vv.21ff, 44-49.
61 See also Rom 8:15-17; Gal 3:26-29; 4:5-7.
63 1 Cor. 15: 22-24.
64 Eph. 2:15-22; 1 Tim. 2:4.
65 Rom. 8:19-22; 1 Cor. 15:28.
66 David Cairns has provided significant contribution in this line of thought. See D. Cairns, op.cit., pp. 52-60.
of God and humankind’s filial relationship to God contains all that he needed to say on the subject that human persons are image of God.

It is because created by God in God’s image and likeness, human persons are children of God in an analogical sense. This biblical sense of the image of God has been bought out by Paul Lamarche in his study of the genealogical narrative of Adam as given in Gen 5:1-32, and that of Jesus as referred to in Lk 3:23-38. He comments:

[M]an is constituted in a situation that is altogether special vis-à-vis God. Just as man procreates children ‘in his own likeness according to his image’ (Gen. 5:3), so was man created by God. This is to say that man is a child of God. In the genealogy presented by Luke, the relation which is established between Seth and Adam is identical with that which exists between Adam and God in Lk. 3:38. David Cairns has provided significant contribution in this line of thought. See D. Cairns, op.cit., pp. 52-60.

According to Paul Lamarche, the authors of these narratives mean that just as Adam is the biological father of Seth as he begot him in his image and likeness (Gen 5:3), in the same manner, but in an analogical sense, God is the Father of Adam (Lk 3:38) in so far as God created Adam in God’s image and likeness. Consequently, it implies that as an image of God every human person is a child of God because Adam is a generic concept referring to the entire humanity. Moreover, scholars suggest that some New Testament expressions, such as “You, therefore, must be perfect, as your heavenly Father is perfect,” “He who has seen me has seen the Father,” “No one has ever seen God; the only Son, who is in the bosom of the Father, he has made him known,” are equivalents of the “image of God” concept.

It is this biblical insight into the meaning of image of God concept that resonates with Jesus’ approach to Kingdom of God, which is central to his message and mission. The content of Jesus’ kingdom message is derived from his unique “abba” experience of God. It is equally important to note that this core-experience of Jesus defines his self-identity as the divine Son of God and all humankind as God’s children. Our claim calls for explanation to substantiate our position, which we provide in what follows.

The coming of the Kingdom of God was the central eschatological hope of the Old Testament faith expressed through

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68 Joachim Jeremias and others have shown credibly that Jesus’ way of addressing God as abba, especially in prayer was unknown to contemporary Judaism of Jesus’ time. They stress that it goes to Jesus himself. See J. Jeremias, The Prayer of Jesus (London, SCM Press, 1967), pp.11-65; James Dunn, Jesus and the Spirit (London, SCM Press, 1975), pp.12-40.
69 Jacques Guillet has succinctly noted the continuity of expression between Jesus’ self-revelation as the Son of God and the christological faith of the apostolic Church. He commented: “If ‘Son of God’ is probably a Christian creation, the content which it encompasses comes not from its previous history but from the object which it designates; and if the expression as such has probably never been pronounced by Jesus, it is the echo of a word certainly authentic by which Jesus allowed its deepest secret to come through in some decisive moments: he is the Son. Such moments are rare; the synoptics mention but two, the “hymn of jubilation”: “No one knows the Son except the Father and no one knows the Father except the Son” (Mt 11:27; Lk 10:22), and the admittance to not knowing at the end of the eschatological discourse: “But of the day and hour no one knows, not even the angels in heaven, nor the Son, but the Father only” (Mt 24:36; Mk 13:32). Two texts the authenticity of which seems well assured both by the unique character of their content, hard to imagine, and their inimitable style.” J. Guillet, Jesus devant sa vie et sa mort, Paris, Aubier, 1971, pp. 228-229, (English translation quoted from J. Dupuis, op.cit., p. 48).
70 Following the example of Jesus and his frequent manner of addressing God as abba in prayer in the company of his disciples and friends with whom he used to have table-fellowship, the early Christians dared to address God as Father with the same intimacy as Jesus himself had used, especially as given in Gal 4:6 and Rom 8:15. They were conscious of being “sons in the Son”.
messianic expectation. It originated from Israel’s belief that as Creator and Lord of the universe, Yahweh their God, who intervened in their past history with mighty acts to redeem them whenever they were caught up with desperate peril. In like manner, Yahweh’s definitive future redemptive intervention was expected to happen. This was known as the “Day of Yahweh”, the day on which Yahweh’s Messiah would establish God’s sovereignty as Creator and Lord of the universe, once and for all. At the time of Jesus, different messianic preachers conceived this messianic expectation differently. The latest among them was John the Baptist for whom the Kingdom of God was an imminent divine judgment.

Seen in this biblical background, Jesus’ concept of the Kingdom of God and its coming was, however, something new and original. It was drawn from his unique experience of God as abba, his beloved daddy. In other words, God, who revealed himself in the Old Testament through his mighty deeds of redemptive interventions as Creator and the Lord of the universe, and who created all humankind in his image and likeness, was experienced by Jesus as abba, the dear Father, who loves all people as his children with a fatherly love which is universal and wholly unconditional. Hence “revelation of God’s unconditional love” towards all people in their dignity as God’s children, is the content of the Kingdom of God concept that Jesus preached.

Consequently, when Jesus announced the coming of God’s Kingdom, he was telling to his listeners that in and through his person, God was revealing God’s fatherly love towards all people in order to renew their relationship towards God as his beloved children, as well as to restore their relationship with one another in human solidarity as brothers and sisters in a way appropriate to the dignity of God’s children. Jesus’ entire way of life and manner of ministry to people was the way that this sort of love of God had been put into action and he asked his disciples to follow the path set by him. When Jesus commanded love for everybody, including one’s enemies, he unequivocally implied that all people were children of God, and, therefore, they possessed the image of God in the sense that they were God’s image. Hence, Jesus intended that all be loved and respected, as their heavenly Father loves them.

In this connection, an important point for our inquiry regarding human dignity is to be noted here. The Kingdom of God, which has...
come in and through Jesus’ life and action, was predominantly addressed to the poor, the *anawim* of God. These were the despised and detested categories of people to whom dignity was denied in the Jewish society at the time of Jesus. Moreover, Jesus identified his mysterious presence with them. A common sight in the company of Jesus was the presence of sinners who were also looked down and alienated by the society as cursed by God. These were treated as if they lost their dignity in the eyes of God.

The invitation of Jesus extended to these so-called sinners to join his company was the ultimate affirmation that Jesus gave in the days of his ministry to the inalienable dignity of every human person as image of God, which even sin is unable to eradicate. By offering God’s fatherly bond of love through these acts, which is unconditional and universal in character to these categories of people, Jesus affirmed that created in God’s image, every human person is a child of God and, therefore, he or she is unconditionally loved, accepted, sustained and supported by God. Hence, as children of God, human dignity is a divine bestowal, and consequently no human hand can abrogate it.

2.4.2.4. Divine Image Reveals the Dignity of Being Human

We sum up our investigation into the biblical foundations for human dignity. The theological insights of the Old Testament thought, that God created human beings in God’s image as narrated in the Book of Genesis, constitute the immutable basis of all Christian anthropology. These insights expose the fundamental truths about the mystery of human existence and provide reasons for human dignity inherent in the nature of being human.

The theological insights, which come into view from the biblical concept of *imago Dei*, as given in the book of Genesis imply that God’s calling of human beings into existence in God’s image involves a divine endowment with spiritual qualities analogous to God. Consequently, human beings are persons before God. As persons, they are conscious, free and responsible beings, capable of acting on God’s behalf. They are called by God to order their lives, shape their destiny and creation and, therefore, participate in the work of God. Hence, human beings are God’s dialogue partners on earth because God shares with them God’s intention for the integrity of creation. God sees God’s self reflected in them and, therefore, they are the divine splendour and glory on earth.

Seen in this perspective, the theological reason for human dignity is the bond of inter-personal relationship that God established with human beings, which God sees God’s self reflected in them and, therefore, they are the divine splendour and glory on earth. The bond of the divine image reveals the dignity of being human.

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88 Mt 25: 31-46. Serving the poor in the margins of the society seems to be the criterion on which one is judged on the Last Day.
89 Mk 2:13-17; Mt 9:9-13; Lk 5:27-32.
92 John Paul II, LE, 4.
93 The magisterial teaching of the Church invariably connects the image of God concept as the basis for human dignity. See J. Neuner & J. Dupuis, eds., *Christian Faith*, op.cit., pp. 135-144.
96 John Paul II has often stressed this aspect: “The sense of the dignity of the human person must be pondered and reaffirmed in stronger terms. A beneficial trend is advancing and permeating all peoples of the earth, making them ever more aware of the dignity of the individual: the person is not at all a “thing” or an “object” to be used, but primarily a responsible “subject”, one endowed with conscience and freedom, called to live responsibly in society and history and oriented towards spiritual and religious values.” See John Paul II, Apostolic Exhortation *Christifideles Laici*, 30 December 1988 (Vatican Polyglot Press), 5. It will be henceforth referred as CL.
97 Gen 1:28-31.
98 Walter Kasper succinctly said it: “Man is a being related to God…his ally, addressable by God and addressing to God.” Cf. L. Roos, “The Human person and Human Dignity as Basis of the Social Doctrine of the Church”, in *Principles of Catholic Social Teaching*, op.cit., p. 54.
99 Ps 3:5.
human beings as persons by calling them into existence in God’s image. In spite of sin, God remains committed to this bond of communion that God established with the human family as God’s image. God’s faithfulness to humankind as God’s image is the heart of human dignity. Hence, humankind is destined to live in communion with God and responsibly participate in the work of God from which arises inalienable rights and duties that are inherent in human nature in the protection of human dignity appropriate to the divine image.

God’s calling of men and women into existence as God’s image, moreover, entails equality of all people in their nature as being human. They are called to live in solidarity with others because as image of God, human persons are relational-selves. This divine image, which constitutes the nature of being human, “is passed on by man and woman, as spouse and parents, to their descendants”.

Therefore, in accordance with this divine calling of human beings, the creator has empowered them with responsibility to order creation in a manner appropriate to their dignity as the divine image on earth.

The doctrine of the image of God and its significance to human dignity does not stop with Old Testament theology, but re-emerges as a fundamental aspect of the New Testament theology, especially in christology, soteriology and eschatology. It is because the creation story in the book of Genesis only hints at the nature of the resemblance of humans as image of God and leaves it there to a large extent as a speculative insight, namely as a “non-historical view.” However, in the context of salvation history, the image concept finds its proper theological configuration in the Paschal mystery of Jesus Christ, the Son of God incarnate, who as the visible image of the invisible God called all people to share in the filial relationship (sonship) of the Son so as to re-establish their communion with God and with one another as God’s beloved children for which every one is created in divine image.

102 This has been especially emphasized by the Pontifical Commission Justitia et Pax in its first official document condemning racism in all forms. This document condemns the various forms which racism has taken in the past or are current even today. It suggests the application of the “principle of the equal dignity of persons” to overcome racism. The document indicates that in Christine doctrine, this equal dignity of persons is based on the revealed truth of the creation of all human persons in God’s image and likeness, with the same nature and origin, the same calling and destiny in Jesus Christ. This doctrine, which has been often affirmed by the Magisterium (cf. GS, article 29), is here developed with vigour. The document reads: “According to biblical revelation, God created the human being - man and woman - in his image and likeness (cf. Gen. 1:26-27; 5:1-2; 9:6). This bond between the human person and the Creator provides the basis of his or her dignity and fundamental inalienable rights of which God is the guarantor. These personal rights obviously correspond to duties towards others. Neither the individual nor society, the state or any human institution can reduce a person or a group of persons to the status of an object.” (PCJP, The Church and Racism: Towards A More Fraternal Society (1988), 19. Quoted from The Christian Faith, op. cit., pp.143-144.
103 Gen 1:27b; see John C. Dwyer, op. cit., p. 734.
105 Gen 1:26b, 28b-29.
106 Gen 1:26-28.
107 Jürgen Moltmann holds that the Gospel of Christ illumines the Old Testament creation story. The true likeness of God in human beings is to be found not at the beginning of God’s history with humankind, but at its end; and as its goal, it is present in the beginning of salvation history and during every moment of that history. See Jürgen Moltmann, God in Creation, op.cit., pp. 223-224.
109 Jn 1:1-18; Phil 2: 6-11; Col 1:15-20; Eph 1:3-13.
110 Col 1:15-20; Heb 1:1-3.
111 Cf. Gal 4:6; Rom 8:15.
113 What is involved here is a process of christologization, i.e., the christological interpretation of the image doctrine of the creation story. Various christological approaches can be followed in giving interpretation to the image of God doctrine in the light of the mystery of Christ, namely the salvation history approach, the eschatological approach and the anthropological approach, etc. Oscar Cullmann represents the salvation history approach. According to this approach, the Christ event is situated in the overall economy of God’s way of dealing with humankind throughout history in terms of God’s self-revelation and self-gift. Hence, according to Cullmann, the Christ event from incarnation to Paschal...
The image of God inscribed in the saving mission of Jesus is that of a God who, in his parental concern for all people, has indissolubly bound his self in a bond of self-giving love in the affirmation of human existence created in the divine image. The mystery is not only the real centre of history but also the dynamic principle of intelligibility of the entire historical process. Consequently, what precedes the Christ event is oriented towards it as evangelical preparation; what follows after it falls under the unfolding process of the potentialities of the event in the time of the Church [See Oscar Cullmann, Christ and Time (London, SCM Press, 1965)].

The eschatological approach is very much represented in the recent time by J. Moltmann. For him the entire history of humankind tends towards the realization of a divine plan (divine promise / divine intention) of an eschatological salvation. In this perspective, the death and resurrection of Jesus is the prolepsis of the eschaton. In this model, the Christ event is irreplaceable, but the focal point of the entire salvation history is the eschaton, that is, the consummation of the entire creation in the glory of Christ on the last day. He uses this model in his interpretation of the creation story of Genesis according to which the original designation of human beings as imago Dei gains meaning only in the light of imago Christi who as the raised and transfigured Messiah reveals the true image of God. But imago Christi is only the prolepsis of the eschatological glorification of humankind as divine image in imago Dei [See J.Moltmann, op.cit. pp. 215-228; see also one of his important works in the recent time, J. Moltmann, The Way of Jesus Christ. Christology in Messianic Dimensions (London, SCM Press, 1990)].

The anthropological approach may take different forms. We consider here Karl Rahner’s philosophico-theological approach, the well-known “Transcendental Christology”. Rahner argues that from a philosophical point of view humankind is open to self-transcendence in God and capable of receiving the free gift of God’s self-communication. From theological point of view he holds that humankind is created by God and destined for divine-human communion. Hence, we concretely and actively tend towards the realization of such a self-transcendence which he terms as “supernatural existential”. The supernatural existential, which inheres in us, constitutes the a priori condition for the possibility of the incarnation of the Son of God. Therefore, the Mystery of Christ is what happens if God gratuitously brings to pass the realization of this deepest longing, which is inherent to human nature. Hence, christology becomes the perfect realization of anthropology in so far as in Jesus Christ the divine-human communion is actualised and, therefore, in him the mystery of being human or the mystery of being created in the divine image is revealed. [See K. Rahner, Foundations of Christian faith, op.cit., pp. 116-138, 203-227; Ibid, “On the Theology of Incarnation”, in Theological Investigations, vol.4 (London, Darton, Longman and Todd, 1974), pp. 105-120].

2.4.3. Image of God and Human Dignity in the Tradition of the Church

The purpose of our study in this section of our investigation is to indicate the importance of the doctrine of imago Dei for human dignity in the tradition of the Church. For this purpose, we highlight some theological developments of historic importance about the image of God concept from the Patristic period to the contemporary times and their significance to human dignity in the Christian thought.


Rom 8:29.

2 Cor 3:18.

Col 3:10.

Cf. Rom 8: 17.

The entire chapter 15 of St. Paul’s First letter to the Corinthians speaks about the Christian hope of resurrection and final glorification in the glory of Christ. In 1 Cor 15:20-28, Paul describes Adam-Christ typology to present Christ’s resurrection as the guarantee of the eschatological general resurrection. In 1 Cor 15:49 Paul connects the image of Christ with the resurrected new humanity by means of an Adam-Christ typology with its correlate last-Adam Christology.
A certain methodological difficulty arises in dealing with this subject in its historical perspective during these two millennial stretches of time.

First of all, from the Patristic time to the modern age, there is no extensive elaboration and proliferation of thought about image doctrine between one leading theologian to another. Secondly, there is also no clear line of development of thought from century to century. Nevertheless, the image of God doctrine is all pervasive, especially in the writings of the Fathers of the Church and in the theology of the Middle Ages. John E. Sullivan, who has done an extensive study on this subject as developed during the Patristic period, comments:

In the theology of Augustine, as in the teaching of all the Fathers (and especially the Greek Fathers), the theme of the image is truly a central one. Here can be seen at the same time Christology and Trinitarian theology... anthropology and psychology, the theology of creation and grace, the problem of nature and supernature, the mystery of divinization, the theology of the spiritual life, the laws of its development and progress.120

Thus to embark on an investigation into each leading theologian’s contribution seems not required and also not possible for our purpose. We have to make a choice of method to organise the material needed in this section of our study based on some principles. Accordingly, we have selected the works of some leading theologians whose writings were instrumental to checkmate the principles. Accordingly, we have selected the works of some leading theologians whose contributions brought clarity of thought to the image doctrine considered as evil, as caused by the realm of darkness. Hence, the Church’s relentless defence against all forms of Manicheism and Gnosticism which continued to prevail right up to the middle ages. At the same time, while affirming God’s intimate union with his creatures, and in an unique manner with humankind created in God’s image, the Church kept insisting on the divine transcendence so that the dividing line between the infinite and the finite may never be blurred as against all sorts of pantheism and emanationism which kept exerting their decisive influence right up to the modern times (see The Christian Faith, op.cit., pp. 125-135).

In this regard, the contribution of St. Thomas Aquinas is of great importance. Insisting on the goodness of creation, Aquinas recognized a considerable role for human reason as a source of moral wisdom and knowledge. His theory of natural law exemplifies a teleological rather than a deontological model. For St. Thomas the end plays the primary role in morality. His view is that human being must strive to attain the true end of all of the God-given inclinations and powers, namely passions, intellect and will, which make up human nature and which reveals the divine image in the human being. See Summa Theologiae, I a II a, q.90-97. On the moral significance of the image of God in the thought of Aquinas, see Michael A. Dauphinais, “Loving the Lord your God: The Imago Dei in Saint Thomas Aquinas”, in The Thomist, 63 (1999), pp. 241-2467.

For contemporary period, we have chosen some innovative popular theological trends of historic importance wherein image concept has been a catalyst for the development and justification of these thought. These are, namely Theology of Liberation, Feminist Theology and Echo-theology. Finally we have chosen some social encyclicals of the Popes in which the image concept has been a rallying point for the social teaching of the Church. For this purpose we have chosen the following encyclicals: Rerum Novarum (1891), Quadragesimo Anno (1931), Mater et Magistra (1961), Pacem in Terris (1963), Populorum Progressio (1967), Laborem

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121 The oldest concern with regard to the doctrine of creation is the doctrinal assertion of the one God, Creator of heaven and earth. Related to this affirmation is the struggle against all forms of dualistic conception of the world. It is incompatible with the biblical concept of God that the material universe, and consequently also the human body, be excluded from God’s creation and as well as highlighted the ethical policies affirming human dignity.122

122 In this regard, the contribution of St. Thomas Aquinas is of great importance. Insisting on the goodness of creation, Aquinas recognized a considerable role for human reason as a source of moral wisdom and knowledge. His theory of natural law exemplifies a teleological rather than a deontological model. For St. Thomas the end plays the primary role in morality. His view is that human being must strive to attain the true end of all of the God-given inclinations and powers, namely passions, intellect and will, which make up human nature and which reveals the divine image in the human being. See Summa Theologiae, I a II a, q.90-97. On the moral significance of the image of God in the thought of Aquinas, see Michael A. Dauphinais, “Loving the Lord your God: The Imago Dei in Saint Thomas Aquinas”, in The Thomist, 63 (1999), pp. 241-2467.

123 Some works of these theologians were also mentioned in the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes, of the Second Vatican Council, which explains that human dignity is founded on the theology of Image of God. See for example St. Augustine’s Confession 1, 1(PL 32, 661) in GS, article 21; St Irenaeus’ Adversus Haereses, V, 36, 1(PL 7, 1222) in GS, article 39; St. Thomas’ Ethica Lect.1, in GS, article 25, etc.

2.4.3.1. The Eastern Development of the Doctrine

Irenaeus is the first among the Fathers of the Church who had much to say on the doctrine of image of God and human dignity. His contribution to Christian anthropology had a lasting impact on later thinkers. One of the most important questions asked in the history of interpretation of the image of God concept is the extent to which humankind was corrupted by the fall; and whether it is possible to designate divine image to humans after the fall, and if so in what sense? In this connection, Irenaeus has been regarded as the theologian who, in his exegesis of Gen 1: 26, made a distinction between image (imago) and likeness (similitudo). He held that likeness (similitudo) be construed as the human person’s original righteousness which was lost after the fall, while image (imago) be taken to mean the divine image in humans which still continues to exist.


125 It is generally held today by most of the Bible scholars that Irenaeus’ exegesis to Gen 1: 26 is based on a wrong premise. For detail see David Cairns, op. cit., p. 28.

126 Irenaeus says, “But if the Spirit be wanting to the soul, he who is such is indeed of an animal nature, and being left carnal, shall be an imperfect being, possessing indeed the image in his formation, but not receiving the similitude through the Spirit, and thus is this being imperfect.” Adversus Haereses 5.6.1, in Johannes Quasten, Patrology, op. cit., vol. I, p. 309. David Cairns in his exegesis of Irenaeus’ text explains that for Irenaeus the man “of an animal nature” means the natural man after the Fall, who has still the image, while a special gift of the Spirit is needed to perfect him, and give him the likeness or similitude which was lost at the Fall (See David Cairns, op. cit., p. 81). According to one common variety of this line of interpretation is that imago means the human nature, which cannot be lost, while similitudo means human person’s original relation to God, which may be lost. However, similitudo has been lost since Adam. See

bestowal of human nature endowed with reason and freedom which is not lost by the sin but found universally in all people. This becomes clear in his approach to divine justice against the wicked. He comments:

But man, being endowed with reason, and in this respect like to God, having been made free in his will, and with power over himself, is himself the cause to himself, that sometimes he becomes wheat, and sometimes chaff. Wherever also he shall be justly condemned because, having been created a rational being, he lost the true rationality, and living irrationally, opposed the righteousness of God, giving himself over to every…earthly spirit and serving all lusts.

Again in another place while commenting on the place of Adam after the fall, Irenaeus stresses on the retention of reason and freedom with which humankind is endowed as image of God. He says, “For never at any time did Adam escape the hands of God.” In Irenaeus’s language “the hand of the Father” and “the hands of God” are Trinitarian terms referring to the Son and the Holy Spirit. For Irenaeus, God in himself is true reason and human rationality is a participation in the divine reason. This means that just as Adam, all are endowed with the dignity of spiritual nature, which is to be construed as reason, freedom, and responsibility with which humans are capable of deciding their destiny and to have communion with God.

Irenaeus affirms the substantial unity of the human person. He says that, as image of God, human being is a totality of body, soul and spirit. He explains that the human person is composed of


127 It is significant to note that after Irenaeus, Christian thinkers generally held that reason, freedom and moral responsibility as essential qualities of being human, rooted in the soul, i.e., rooted in the bestowal of image of God in human beings. See J.H. Walgrave, “Man’s Self-understanding in Christian Theology”, in Louvain Studies, vol. VI (Spring 1974), p. 49.

128 Adversus Haereses 4.4.3. See also David Cairns, op. cit., pp. 81-82.

129 Adversus Haereses 5.1.3. See also David Cairns, ibid., p. 88.

130 See David Cairns, p. 88.

131 Irenaeus follows the Platonic anthropology of trichotomy where body, soul...
“a body taken from the earth and a soul which receives from God his spirit.”\textsuperscript{132} Having a body, the person is naturally inclined towards perishable things; having a spirit, the person is naturally turned towards the immortal God. According to Irenaeus, the spirit is mixed with the soul as he says elsewhere:

For by the hand of Father, that is, by the Son and the Spirit, man, and not merely a part of man, was made in the likeness of God. Now the soul and the spirit are certainly a part of the man, but certainly not the man; for the perfect man consists in the conningling and the union of the soul receiving the Spirit of the Father, and the mixture of that fleshly nature which was also moulded after the image of God…Neither is the soul itself, considered apart by itself, the man; but it is the soul of a man and part of a man. Neither is the spirit a man, for it is called the spirit, and not a man; but the conningling and union of all three constitutes the perfect man.\textsuperscript{133}

It must be noted that Irenaeus stressed on the unity of body-soul-spirit composition of person to highlight on the dignity of the whole person as image of God as against Gnostics, who promoted the view that matter was intrinsically evil originating from an evil principle. For Irenaeus God creates the whole person. Moreover, in his christology, Irenaeus insists that Jesus Christ, the divine Son incarnate, took on a body, not only to redeem humankind but more precisely to be our perfect image or exemplar according to which humankind is fashioned. According to Irenaeus humankind is made not directly in the image of God the Father but according to the image of Jesus Christ, divine Son incarnate.\textsuperscript{134}

Irenaeus’ emphasis on the dignity of human person as image of God becomes explicit in his Christocentric anthropology written against the Gnostics. The passage reads:

And then again, this Word was manifested when the Word of God was made man, assimilating himself to man and man to himself, that by means of his resemblance to the Son, man might become precious to the Father. For in times long past, it was said that man was created after the image of God. Wherefore also he did easily lose the similitude. When, however, the Word of God became flesh, he confirmed both these, for he both showed forth the image truly, since he became himself what was his image, and he re-established the similitude after a sure manner, by assimilating man to the invisible Father through means of the visible Word.\textsuperscript{135}

David Cairns observes that this line of thought is in harmony with Irenaeus’ reaction to the most prevalent thought of the time, that is, Gnosticism,\textsuperscript{136} which in its various forms, devalued human persons in their physical nature. On the contrary, Irenaeus stressed that, as God’s image the whole of human person is precious to God and, therefore, destined for redemption. This is one of his valuable and enduring contributions to the value of human dignity in Christian thought.

Like Irenaeus, Clement of Alexandria asserted the universality of divine image in all people\textsuperscript{137} against the Gnostic teaching of Valentinus and Basilides who held that only some were of divine origin. Consequently, these were superior to others in the society by birth and in the enjoyment of spiritual destiny.\textsuperscript{138} This was the...
most prevalent thought in the city of Alexandria at the time Clement. Just as Irenaeus, Clement’s writing located the divine image to human reason universally found in all humankind.\(^{139}\)

Contrary to the divisive anthropology of the Gnostic thought, Clement preached the values of human dignity and egalitarian world order founded on the theological principles of the unity of divine will in creation and universality of salvation for all in the Paschal mystery of Christ, the incarnate image of the invisible God. Arnold Struker,\(^{140}\) who had done a detailed study of the image of God doctrine as developed by the Fathers of the Church during the early centuries, pointed out that the Fathers identified the divine image common to all humankind in “the spiritual likeness between God and man revealing itself through reason and freedom.”\(^{141}\)

Athanasius proposed a theory of anthropology based on the Logos-theology of Johannine prologue (Jn 1: 1-18). According to Athanasius, humankind’s special affinity to the eternal Logos is the foundation for human dignity that is universally applicable to all people. He held that humans were image and likeness of God through their special participation in the Logos that gave them the possibility and desire to know God. Commenting on Athanasius’ theory of anthropology, Walgraeve writes, “There is in the nous, the soul’s faculty of knowing, something by which he has a special affinity with God. In virtue of this divine seed, immortality and deification, although not attainable by man’s efforts, but freely given by God, are the proper object of his inner dynamism.”\(^{142}\)

Athanasius claimed that the mystery of the redemptive incarnation of Jesus Christ, the eternal Logos, further reveals the greatness of human beings in the plan of God. In De Incarnatione Athanasius explains, “He was made man that we might be made God…and He manifested Himself by a body that we might receive

the idea of the unseen Father; and He endured the insolence of men that we might inherit immortality.”\(^{143}\)

Gregory of Nyssa had the most decisive influence in the later development of Christian anthropology in Greek theology.\(^{144}\) In contrast to the ancient Greek philosophical idea that human person is a microcosm, Gregory comments that human being is much more than an imitation of the material universe. A human being’s excellence and greatness rests “not upon his likeness to the created universe, but upon the fact that he has been made in the image of the nature of the creator.”\(^{145}\)

According to Gregory of Nyssa, a human being is the faithful image (\textit{eikon}) of God by possessing reason, freedom and supernatural grace. To create human beings in God’s image means that God has made human nature as participation in all good. Commenting on Gregory of Nyssa’s interpretation of the divine \textit{eikon} in human beings, Walgraeve observes that there is “in man certain connaturality with God,”\(^{146}\) which Gregory describes in a glowing manner in his commentary on the beatitude, “Blessed are the pure in heart, for they shall see God” (Mt 5:8). Gregory of Nyssa explains:

I think that in this short saying the Word expresses some such counsel as this: There is in you human beings, a desire to contemplate the true good. But when you hear that the Divine Majesty is exalted above the heaven…and Its nature inaccessible, do not despair of ever beholding what you desire. It is indeed within your reach…For He who made you did at the same time endow your nature with that wonderful quality. For God imprinted in it the likeness of the glories of His

\(^{139}\) Protreptikos, 98.4, as quoted in David Cairns, \textit{op. cit.}, p. 90.
\(^{141}\) Ibid., p. 21.
\(^{142}\) J.H. Walgraeve, \textit{op. cit.}, p. 53.
\(^{143}\) De Incarnatione 54, in J. Quasten, \textit{op.cit.}, vol. III, p. 71.
\(^{146}\) J.H. Walgraeve, \textit{op. cit.}, p. 53.
nature, as if moulding the form of a carving into wax. But the evil that has been poured all around the nature beating the Divine Image has rendered useless to you this wonderful thing that lies hidden under vile coverings. If, therefore, you wash off by a good life the filth that has been stuck on your heart like plaster, the Divine beauty will again shine forth in you.147

Hence, Gregory concludes that a human being is the greatest of all things known “because none of the existing things has been made in the likeness of God except that creature which is man.”148 In Gregory’s thought, we have a theologically advanced anthropology of the Eastern Church that expresses in a profound manner the greatness and invaluable dignity of human beings as image of God.

2.4.3.2. The Western Development of the Doctrine

The Western theological thought on the imago Dei began with Augustine, the bishop of Hippo, because prior to him there wasn’t any significant attempt made on the subject in the Western theological tradition. Augustine’s influential work is presented in his great work on the Trinity (De Trinitate)149 Augustine brought out the psychological and moral aspects of the imago Dei doctrine as seen from the perspective of the spiritual realisation of God who is Triune. He located the divine image in the rational faculty of the immortal soul. Augustine says, “[T]he human soul is never anything save rational or intellectual, and hence, if it is made in the image of God…that it is able to use reason and intellect in order to understand and behold God.”150

According to him, certain initial knowledge of God belongs to human nature as such, which drives human beings on the path to discover God and become like God. Augustine, moreover, held the view that since God is Triune, human reason in its manner of operation must have Trinity like character, which he identified as memory,151 understanding and will (memoria, intelligentia, voluntas). Resulting from this interpretation, he defined the universal image of God inherent to human nature as the power or capacity to remember, know and love God (capax Dei). Augustine says:

[A]lthough worn out and defaced by losing the participation of God, yet the image of God still remains. For it is His image in this very point, that it is capable of Him; which so great good is only made possible by its being His image. Well, then, the mind remembers, understands, loves itself; if we discern this, we discern a trinity, not yet indeed God, but now at last an image of God…This trinity, then of the mind, is not therefore the image of God, because the mind remembers itself, and understands and loves itself; but because it can also remember, understand and love him by whom it was made.152

It is this mystery of human persons created in the image of the Triune God, which is wonderfully summarised in Augustine’s well-known words, “fecisti nos ad te (our very being is a being-towards-God) et irrequietum est cor nostrum (the movement of restless cogitation and desire of the heart) donec requiscat in te (the final rest in you).”153 Augustine’s thought awakens in the hearts of men and women for ages the wonder and awe at the greatness and dignity of human persons created in the image of the Triune God.

In his work on the doctrine of the imago Dei, Thomas Aquinas largely adopted what Augustine had taught, making it more explicit

149 See Augustine, De Trinitate, X, 12. For discussion of Augustine’s doctrine of the image of God, see David Cairns, op. cit., pp. 93-101.
151 For Augustine ‘memory’ does not mean the capacity to remember the past only. It has got a special meaning in his thought, which means the “self as a reflective subject”. See David Cairns, op.cit., p. 102.
153 English translation as rendered by J. H. Walgraeve, op. cit., p.55.
in intellectual and psychological terms so as to fit it into his elaborate system of thought in Aristotelian language. \(^{154}\) The theological foundation of Thomas’ approach to the *imago Dei* doctrine is the theory of analogy of being. God is being, and therefore all created things image him in a certain degree. But Thomas held that God’s image is not to be found, strictly speaking, in non-rational beings. For Thomas Aquinas the image of God in humans consists in their intellectual nature. He says, “Some things are like God first and most generally inasmuch as they exist, some inasmuch as they have life, and a third class inasmuch as they have mind or intelligence.”\(^ {155}\)

When asked whether God’s image is universal to all humankind Thomas answers:

We must say that when man is said to be made in the image of God in virtue of his intellectual nature, he is chiefly in God’s image. His intellectual nature chiefly imitates God in this that God understands and loves himself. Whence the image of God can be considered three ways in man. In one way, according as man has a natural aptitude for understanding and loving God and this aptitude consists in the very nature of the mind, which is common to all men.

In another way, according as man by act of habit knows God and loves him, but imperfectly, and this is the image by conformity by grace.

And in the third way according as man knows and loves God in act perfectly and this is the image according to the likeness of glory.\(^ {156}\)

David Cairns suggests that these three senses of the image as described by Aquinas refer to the biblical understanding of divine image in humankind.\(^ {157}\) Aquinas’ first sense of the image specifies the Old Testament concept of image that refers to the common humanity shared by all people endowed with spiritual quality as of rationality. The second sense of the image points out exclusively to the New Testament concept of image that believers are conformed by grace into the image of Christ.\(^ {158}\) This involves an active participation on their part into the life of Christ. The third sense of the image denotes life in Christ in a full and perfect way in glory.

St. Thomas Aquinas located the divine image in the soul whose nature is intellectual and which does not exclude the image of the Trinity. He argued that rational beings tend in a certain way to a specific representation of God.\(^ {159}\) Aquinas compared the thought of the intellect (the thinking self) and the love that emerges from it with the Trinitarian processions and, therefore, analogically imaged the Trinity in the human intellect. He says, “We must, therefore, say that in man there exists the image of God, both as regards the Divine Nature and as regards the Trinity of persons; for also in God Himself there is one Nature in Three Persons.”\(^ {160}\)

Hence, Thomas saw the meaning of divine image in humankind through the Aristotelian thought form, which views reason as the essential quality that defines the universality of human nature.\(^ {161}\)

Suffice for our purpose to point out that the divine image as referred to in the book of Genesis\(^ {162}\) is regarded in the Scholastic thought as the rational capacity of the human person, which is construed as universal divine endowment. This Scholastic position implies that by virtue of this divine endowment, all are born equal in dignity; and they are responsible partners before God to order life in accordance with laws ordained in nature, which is known through reason.\(^ {163}\)

\(^{154}\) The elaboration of Thomas Aquinas on the doctrine of the image of God in humankind is given in his work: *Summa Theologica*, I a, q.93; q.35; 2a, 2ae, q.175, a.1 ad 2. *De Veritate* q.10, a.7; *De Potentia* q.9, a.9. *Contra Gentiles* IV, 26.

\(^{155}\) *Summa Theologica*, 1, 93, 2.

\(^{156}\) *Summa Theologica*, 1, 93, 4.

\(^{157}\) David Cairns, pp. 121-126.

\(^{158}\) Rom 8:29; 2 Cor 3:18.

\(^{159}\) *Contra Gentiles* III, 25.

\(^{160}\) *Summa Theologica* 1a.q.93, a.5

\(^{161}\) For a perceptive theological critique on Thomas Aquinas’ approach to image as reason, see David Cairns, *op. cit.*, pp.116-126.

\(^{162}\) Gen 1:26-28.

\(^{163}\) Natural law is understood in the Thomistic tradition in relation to eternal law.
Consequent to Scholastic thought,164 the Catholic moral theological tradition has consistently accorded primacy to natural law known by reason as an expression of the nature of the human person. The whole realm of the ethical dimension of human life eventually began to enjoy autonomy due to the importance accorded to reason with which every human person is endowed. It was also instrumental to recognise the legitimate autonomy of the secular order from the sacred in the political society.165 In concluding our study of Thomas Aquinas’ contribution to the concept of image of God, we note that he distinguished between the natural image that is retained by all and the supernatural image, which is restored to those who are led by faith to live in Christ.166

During the last one hundred years or so, the biblical concept of *imago Dei*, moreover, attracted Bible scholars and systematic theologians of all denominations on account of its significance to human dignity in the Christian thought.167 During this long span of time, whenever the concept of *imago Dei* came for detailed theological treatment, it is taken to mean the universal human nature endowed with spiritual likeness between God and humankind revealing itself in reason and freedom, and in virtue of which all are born free and equal in their nature and dignity as being human.168 However, the Christian exegetes and theologians add to the image concept soteriological and christological significance. They point

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166 Cf. *Summa Theologica* 1, 93, 4; see also Edward M. Curtis, *op.cit.*, p.23.


out that only in the mystery of Christ, the perfect image of the invisible God, can the true meaning of humankind created in the divine image be understood.  

2.4.3.3. The Image of God doctrine in the Contemporary Theology

The concept of image of God is an important source for contemporary theological thought when theology is called upon to deal with matters of human dignity, equality and social responsibility. This is evident from the contemporary theological discourse on human rights, ecology, feminist movements and social justice. In dealing with the matters of human rights, theologians argue that, as image of God, human beings are persons before God. They own responsibility before God. Therefore, a person’s rights and duties are inalienable and indivisible.

In the contemporary debate on ecological crisis, some scholars have directly attacked the image of God passages from the Book of Genesis. They feel that these passages are responsible for creating the Western mind the sense of domination over nature, which in the long run caused environmental hazard. On the contrary, most Bible scholars and theologians believe that the image of God concept entails that human beings are called by God to assume ecological responsibility to protect the integrity of creation befitting to human dignity as trustees of God’s creation. Similarly, the feminist theologians, who often find themselves disappointed in their search to find out biblical sources in the Old Testament in support of gender equality and dignity, claim that they have found a theological source in Gen 1:27 in which a correct concept of gender equality and dignity may be built. The image of God concept has played a decisive role as a theological premise in the Liberation theology movement, which began in the early 1970s in Latin America. Its aim is to conscientize the poor of that continent against abject poverty and to reclaim their rightful place in the society worthy of human dignity. Gustavo Gutierrez, in his work, highlights three theological reasons for the rejection of poverty and all kinds of dehumanisation. He says that firstly, it is against the Mosaic religion of liberation that led the people from slavery to freedom in order that “they could live with human dignity.” Secondly, it is “against the mandate of Genesis (1:26; 2:15). Man is created in the image and likeness of God and is destined to dominate the earth.” Thirdly, he insists that “man not only has been made in the image and likeness of God, he is also the sacrament of God.” The theological conclusion is obvious: any act of dehumanisation infringing on human dignity is an offence against God.

2.4.3.4. The Image of God Doctrine in the Social Teaching of the Church

In this section we take a cursory glance at the contemporary Catholic social teaching as found in the papal encyclicals, beginning with

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172 Phyllis Bird, “Male and Female He created them: Gen 1:27b in the Context of the P Account of Creation”, in Hyprope Theological Review, no. 74 (1981), pp. 129-159; John C. L. Gibson shares the view that “the Church has still a long way to go before it measures up to the standard of Gen 1:27, where male and female together are appointed as God’s representatives.” Quoted in Gunnlaugur A. Jonsson, op.cit., and p.185.


174 Ibid., p. 294.

175 Ibid.

176 Ibid.

177 Many excellent works on Catholic social teaching are available: John A. Coleman, ed., One Hundred Years of Catholic Social Thought (New York, Orbis Books, Maryknoll, 1991); Peter J. Henriot, E.P. De Berri and M.J. Schulteis, Catholic
the encyclical *Rerum Novarum* of Pope Leo XIII written in 1891.\(^{178}\)
The reason to include this area of study in the general body of our work is threefold. Firstly, since the publication of *Rerum Novarum* in 1891,\(^{179}\) the concept of human dignity gained an ever-increasing importance in the social teaching of the ecclesiastical Magisterium in dealing with matters of socio-economic, political and cultural issues as part of pastoral ministry of the Church to promote integral human development and humanisation of the world.

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**2.4.3.4.1. Encyclical Letter *Rerum Novarum* (1891)**

In responding to the problems raised by the industrial Revolution,\(^ {182}\) Pope Leo XIII’s encyclical *Rerum Novarum*\(^ {183}\) written in 1891 saw in human dignity the norm and standard by which the political, social, and economic structures of society are to be judged. In an increasingly industrialised Europe, the management sector of

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\(^{181}\) Pope John XXIII enunciated this principle in clear terms in his encyclical *Pacem in Terris*. He wrote, “This principle must lie at the basis of each well-organized and fruitful human society: that every human being is a person. This means that they are gifted with the power of reasoning and free will. Therefore, they obviously have rights and duties that directly and simultaneously result from their own nature. They are therefore universal, inviolable, absolute, and inalienable”. (PT, n. 9).  


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industry often made the workers mere means for maximalization of productive forces and accumulation of wealth. As a corrective measure to this industrial ethics, Pope Leo XIII wrote:

Workers are not to be treated as slaves; justice demands that the dignity of human personality be respected in them, ennobled as it has been through what we call Christian character. If we hearken to natural reason and to Christian philosophy, gainful occupations are not a mark of shame to man, but rather of respect, as they provide him with an honourable means of supporting life. It is shameful and inhuman, however, to use men as things for gain and to put no more value on them than what they are worth in muscle and energy. Likewise, it is enjoined that the religious interests and the spiritual well being of the workers receive proper consideration. Wherefore, it is the duty of employers to see that the worker is free for adequate periods to attend to his religious obligations…and in no way to alienate him from care for his family and the practice of thrift. Likewise, more work is not to be imposed than strength can endure, nor that kind of work, which is unsuited to a worker’s age or sex.184

According to Leo’s thinking, human dignity demands that workers have economic rights to pursue a meaningful job, which is compatible with their nature as human persons.185 Work should be an ennobling profession to workers and their earnings must be sufficient to meet the basic necessities of their families.186 Therefore, it is a responsibility laid upon the employers and the State to treat workers in a manner that it protects the nobility of human persons,187 “because work energy inheres in the person and belongs completely to him by whom it is expanded and for whose use it is destined by nature.”188

The encyclical Rerum Novarum reflects Pope Leo XIII’s realisation that the nineteenth century Catholicism in the Western world was faced with systemic moral challenges caused by revolutionary changes in the socio-economic and ideological orders.189 In this context, he wanted to specify the principles that truth and justice dictate in dealing with the misery and wretchedness caused by rapid changes in the traditional pattern of social life. In this regard, he stressed on the transcendent value of human persons on the basis of the universality of divine image in all people. Therefore, the Pontiff held that no one has the right to outrage the dignity of human persons created in God’s image but every one is duty bound to protect it with which creator has endowed them. Rerum Novarum declares:

[I]n the case of the worker, there are many things which the power of the State should protect; and, first of all, the goods of his soul. For however good and desirable mortal life be, yet it is not the ultimate goal for which we are born, but a road only and a means for perfecting, through knowledge of

184 RN, n. 31.
185 Ibid., nn. 29-41.
186 Ibid., nn. 19-20.
187 Ibid., nn. 60-62.
188 Ibid., n. 62.
truth and love of good, the life of the soul. The soul bears the express image and likeness of God, and there resides in it that sovereignty through the medium of which man has been bidden to rule all created nature below him and to make all lands and seas serve his interest...In this respect all men are equal, and there is no difference between rich and poor, between master and servants, between rulers and subjects...No one may with impunity outrage the dignity of man, which God Himself treats with great reverence, nor impede his course to that level of perfection which accords with eternal life in heaven. Nay, more, in this connection a man cannot even by his own free choice allow himself to be treated in a way inconsistent with his nature, and suffer his soul to be enslaved; for there is no question here of rights belonging to man, but of duties owed to God, which are to be religiously observed.190

In the above quoted passage the Pope stresses on the inviolable nature of human dignity and that it is a fundamental value of being human. Moreover, the passage grounds human dignity theologically and claims that no person can be treated as a thing to be used. Therefore, all authentic human acts must be in accord with human dignity. Human dignity also calls for a holistic development of the person, both temporal and spiritual. In defence of human dignity, in his approach to socio-economic questions, Pope Leo XIII condemned not only the one-sided individualism associated with liberalism and Enlightenment but also the socialist alternative with its subordination of the individual to society. Thus the beginning of modern Catholic social teaching insists on what might be called a “relational anthropology that avoided the opposite extremes of individualism and collectivism.”192

2.4.3.4.2. Encyclical Letter Quadragesimo Anno (1931)

Pope Pius XI, in his encyclical Quadragesimo Anno (On 190 RN, n. 57.
191 Ibid., nn. 28 and 29.
192 Charles E. Curran, Catholic Social Teaching, op.cit., p.9. The subsequent social encyclicals would insist upon these values.

Reconstructing the Social Order),193 written on the fortieth anniversary of Rerum Novarum, reaffirmed Leo XIII’s conviction of the normative principle of human dignity in dealing with matters of social institutions.194 When the encyclical Quadragesimo Anno appeared, the world had already gone through the revulsion of World War I and experienced worldwide depression. This pathetic geopolitical situation made it clear that threats to human dignity could not be confined to conventional political borders. Pius XI felt that human dignity demanded structural changes in the society in order to avoid the arbitrary injustice of capitalism and the regimented injustice of socialism. Therefore, Quadragesimo Anno treats that both are contrary to the nature of human person who is an individual as well as a social being in one’s dignity as a person.195

The most distinctive feature of the Quadragesimo Anno is its advocacy for a corporative State as a remedy to the individualism of capitalism and collectivism of socialism in order to protect the welfare of all as human dignity demands. Pius XI writes:

[T]he riches that economic-social developments constantly increase ought to be so distributed among individual persons and classes that the common advantage of all...will be safeguarded; in other words, that the common good of all in the society will be kept inviolate.196

194 The concept of human dignity is specifically used at QA, nn. 23, 28 and 50. In as much as it is used in a manner similar to Leo XXIII’s usage in RN, it will not be necessary to elaborate on these passages.
195 About Capitalism and its irresponsible craze for wealth, Pius XI wrote, “This accumulation of power, the characteristic note of the modern economic order, is a natural result of limitless free competition...the whole economic regime has become hard, cruel and relentless in a ghastly measure”(QA, n. 48). Regarding Communism’s heartless obsession for class-war, he pointed out, “Communism teaches and pursues a two-fold aim: merciless class warfare, and complete abolition of private ownership...To obtain these ends, communists shrink from nothing and fear nothing; and when they have acquired power it is monstrous beyond belief how cruel and inhuman they show themselves to be”(QA, n. 49).
196 QA, n. 57.
Hence, with the objective of promoting and protecting human dignity in the socio-economic order, the encyclical insists upon a decentralised economy, which would provide space for individual development and encourage responsibility for peaceful collaboration with various classes. Pius XI believed that this system would go well with the nature of human person who is an individual and a social being, and who has the responsibility to care for oneself and for others.

2.4.3.4.3. Encyclical Letter *Mater et Magistra* (1961)

In 1961 Pope John XXIII issued the encyclical *Mater et Magistra* (On Christianity and Social Progress) to commemorate the seventieth anniversary of *Rerum Novarum*. The title translated in English “Mother and Teacher”, reveals the fundamental two-fold mission of the Church in the domain of Catholic social teaching. As “Mother” the Church gives herself freely and unconditionally to nourish her faithful. As “Teacher” the Church fulfils her primary mission by proclaiming the Gospel particularly as it pertains to social and economic matters in the civil society.

The dominant themes of the encyclical are socialization of the people, also known as people’s participation in the socio-economic and political affairs of the State; and solidarity among nations to ensure peace and to safeguard the common good of all. These social values protect human dignity in a world that has become interdependent. John XXIII points out that the socialisation process opens to people a way of societal life based on many basic social rights, namely:

[T]he satisfaction and the pleasure of numerous personal rights, especially of those which have relation to the economic and social life… and the right to those means indispensable for a real dignified existence, the right to health services, the right to the expansion and deepening of elementary education, the right to more appropriate occupational training, to housing, to labour, to suitable leisure free time, and appropriate recreation.

Speaking on his vision of “world solidarity,” for human development and advancement of peoples of the nations of the world, especially the peoples of the underdeveloped nations, the Pope says that the ultimate norm of this international cooperation for development is unmistakably human dignity. He writes:

The solidarity, which unites all people to one family, compels as it should all nations that are saturated with an overflow of goods, not to stand indifferently towards the countries in which the inhabitants find themselves in such difficult situations that they nearly die of want and hunger and cannot even enjoy the most elementary human right. The nations of the world are becoming more and more dependent on one another and it will not be possible to preserve a lasting peace so long as glaring economic and social imbalances persist.

The only possible solution to this question is one which envisages the social and economic progress both of individuals and of the whole of human society, and which respects and promotes true human values. First consideration must obviously be given to those values which concern man’s dignity generally, and the immense worth of

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197 The master plan of Pope Pius XI was to reconstruct the whole economic system gradually through the creation of corporations based on vocational groupings. Workers would have a share in the ownership of these corporations. Owners would have to belong to these organizations and would not have complete control over labour, capital and profit. Policy decisions would be governed by the principle of common good and not profit motive. Workers would have job security and escape the status of mere wage earners, but become responsible partners of the enterprise (See QA, nn. 64-65, 81-97).


199 It is one of the longest encyclicals, well received by both the Catholic and secular press. See Robert A. Graham, “Catholic Press and the Encyclical”, in *America*, 105 (August 26, 1961), pp. 654-656.

200 Socialization refers to the act of the growing mutual inter-dependence of the citizens which is both cause and effect of a continually increasing interference by the State (Cft. David A. Boileau, op.cit., p. 138). John XXIII treats that it is also the result and expression of “scarcely resistible inclination of humans, an inclination namely to unite with each other to the reaching of goals which each one desires, but which exceed the capacity of single individuals” (MM, n. 60).

201 MM, n. 61.

202 Ibid., n. 157.
each individual human life.203

2.4.3.4.4. Encyclical Letter Pacem in Terris (1963)
In his encyclical Pacem in Terris (Peace on Earth),204 Pope John XXIII takes as his fundamental starting point the human being as “person.” The Pope considers that social order must be rooted in the reality that men and women are persons; and as such they possess, by their very nature, a lofty dignity from which flows rights and duties. On account of its strong personalistic and natural law perspective, the appeal of Pacem in Terris was widespread among the world community.205

Describing the universal rights and duties of people inherent in their nature as persons, the Pope writes:

We must devote our attention first of all to that order which should prevail among men.

Any well-regulated and productive association of men in society demands the acceptance of one fundamental principle: that each individual man is truly a person. His is a nature, that is, endowed with intelligence and free will. As such he has rights and duties, which together flow as a direct consequence from his nature. These rights and duties are universal and inviolable, and therefore altogether inalienable.

When, furthermore, we consider man’s personal dignity from the standpoint of divine revelation, inevitably our estimate of it is incomparably increased. Men have been ransomed by the blood of Jesus Christ. Grace has made them sons and friends of God, and heirs of eternal glory.206

The Pontiff calls these rights natural rights because they have their ontological roots in the nature of the person. Regarding human dignity, the encyclical stresses two things. On the one hand, there is a strong emphasis on personalist approach to human dignity, in so far as centrality is given to the human person; and on the other hand, Pacem in Terris introduces a christological principle in the discourse on human dignity and sees the meaning of human dignity in the light of the Paschal mystery of Christ. Esteem for human dignity is heightened because every human person is precious in the sight of God. Every one is a child of God because every one is redeemed by the blood of Christ and destined for eternal glory.207

Finally, the encyclical develops the concept of human solidarity. It explains the idea of common good and connects solidarity and common good with the international project of world order to improve the already existing bond of international solidarity among peoples and nations since both concepts contain correlated values bound up with human nature. Therefore, they are necessary for the flourishing of human dignity at the local, national and international levels of human-existence-in-community. In view of this emphasis, the encyclical Pacem in Terris states that as the image of God, the social character of the human person is ordained in the nature of being human. Human persons are persons-in-relationship with others.208 These relationships consist in various levels of interpersonal relationships among people, namely the relationship between individuals as citizens and the State, the political relationship between States, and the relationship between political communities with the world community.209 It is under these conditions of solidarity that the good of all should be promoted for the progress of human life in dignity, which avoids the use and abuse of human persons in any way.

203 *Ibid.*, nn. 157, 192. John XXIII holds that the need for this world solidarity is not a duty of love, but primarily a challenge of justice and humanity, which is a demand arising from human dignity (see *ibid.*, nn. 158, 159 and 161).

204 John XXIII, Encyclical Letter Pacem in Terris, 11 April 1963 (Vatican Polyglot Press). It will be henceforth referred to as PT.


206 PT, nn. 9-10.


208 The Pope says that the laws governing the relationships between human beings are to be sought “where the Father of all things wrote them, that is, in human nature.” (PT, n. 6).

209 It is worth referring here to the text which bears enduring value to our time: “[T]he world’s creator has stamped man’s inmost being with an order revealed to man by his conscience; and his conscience insists on his preserving it. Men
Hence, consistent with the personalist approach to the dignity of human persons as image of God, the Pontiff expands and nuances\textsuperscript{210} the definition of common good. For John XXIII, human person is the centre and the goal of the common good. Therefore, the principles of common good should not be contrary to justice and equity, especially in providing protection to the poor and the disadvantaged people because they are also equally entitled to benefit from the common good intended by the Creator of all. He writes:

Among the essential elements of common good one must certainly include the various characteristics distinctive of each individual people. But these by no means constitute the whole of it. For the common good, since it is intimately bound up with human nature, can never exist fully and completely unless the human person is taken into account at all times. Thus, attention must be paid to the basic nature of the common good and what it is that brings it about.\textsuperscript{211}

He further expounds on the responsibility of the civil authorities to promote the common good and says:

We must add, therefore, that it is the nature of the common good that every single citizen has the right to share in it - although in different ways, depending on his tasks, merits and circumstances. Hence every civil authority must strive to promote the common good in the interest of all, without favouring any individual citizen or category of citizen...Nevertheless, considerations of justice and equity can at times demand that those in power pay more attention to the weaker members of society, since these are at the disadvantage when it comes to defending their own rights and asserting their legitimate interests.\textsuperscript{212}

Pope John XXIII observes that in an emerging interdependent world of the human solidarity, the universal application of the common good is an essential requirement for the construction of a humane world order that respects human dignity. Consequently, he points out that a global international structure with universal public authority is needed to promote, protect and defend the common good on an international scale.\textsuperscript{213} Human dignity requires that this structure would not be imposed on nations by force but be established by common accord.\textsuperscript{214}

The Pope proposes that under the purview of this international structure, the relationship among the nation-states ought to be marked by truth,\textsuperscript{215} justice,\textsuperscript{216} proactive solidarity\textsuperscript{217} and freedom.\textsuperscript{218} The international world-body must have as its goal the dignity of the human person and the preservation of rights and duties that flow them.\textsuperscript{219} The Pope saw his vision of the international world body, which arises from the social nature of the human person, to

\textsuperscript{210} Pope John XXIII’s concept of common good is not altogether new but taken from the deontological model of morality based on natural law as expounded in the neo-Scholastic system of thought and as used by his predecessors, namely Pius XII, Pius XI and Leo XIII. For example see their encyclicals: Pius XII, \textit{Summi Pontificatus}, AAS XXXI (1939), 412-453; Pius XI, \textit{Divini Redemptoris}, AAS XXIX (1937) 65-106; Leo XIII, \textit{Immortale Dei, Acta Leonis XIII}, V, (1885), p. 121; \textit{Rerum Novarum} (1891), nn. 28-31. The deontological approach to moral order sees morality primarily in terms of duty or law and conformity to duty or law as ordained in nature, i.e., as ordained in the nature of human person: See Charles E. Curran, \textit{Catholic Social Teaching, op.cit.}, pp. 80-81.

\textsuperscript{211} Ibid., n. 5.

\textsuperscript{212} Ibid., n. 56.

\textsuperscript{213} Ibid., n. 137.

\textsuperscript{214} Ibid., n. 138.

\textsuperscript{215} Ibid., nn. 86-90.

\textsuperscript{216} Ibid., nn. 91-96.

\textsuperscript{217} Ibid., nn. 98-114.

\textsuperscript{218} Ibid., nn. 120-125.

\textsuperscript{219} Ibid., n. 139.
promote the common good of the people among the nations of the world is in harmony with human dignity. This has been already reflected in the United Nations Organization and its Universal Declaration of Human Rights.\(^{220}\)

The Johannine encyclical *Pacem in Terris* has some important contributions for our study of the image of God doctrine in relation to human dignity on four accounts. First of all, in this encyclical, the Pontiff interprets the image doctrine in personalist language. Human beings are persons because they are created in God’s image and, therefore, they participate in God’s dignity, which is the *sumnum bonum*.\(^{221}\) An immediate result of this approach is that all men and women are born equal in dignity because they are created in God’s image.\(^{222}\) This intrinsic and inalienable worth, which is inherent in every human person as divine image, constitutes the anthropological ground for the entitlement to rights and duties flowing from human dignity.\(^{223}\)

Secondly, the Pope refers to truth, justice, charity / solidarity and freedom as four foundational values that constitute a well ordered civil society, beneficial for all in keeping with human dignity.\(^{224}\) Among them, charity / solidarity\(^{225}\) and freedom are personalist value categories. Moreover, it is also the first encyclical that treats freedom as one of the four foundational values for a just social order. This shows the growing importance given to the meaning of freedom in the Catholic social teaching as an inalienable value issuing forth from human dignity.

Thirdly, *Pacem in Terris* is the first encyclical that proposes to appeal to the conscience (moral force) of the citizens in fulfilling their duty for the sake of common good\(^{226}\) rather than advising the State to resort to coercive force of law. The idea of conscience is also a personalist language category. John XXIII indicates in *Pacem in Terris* that the Church is open towards a democratic view of society and decision making process\(^{227}\) instead of an authoritarian view of society which has been generally proposed by the Catholic Church in the past in matters of State and citizenship.\(^{228}\) The Pontiff’s hermeneutic of the image of God doctrine in personalist language gives him the reason to place people at the centre of society and all institutions. Hence, founded on the *imago Dei* doctrine, John XXIII presents an alternative to replace the natural law centred world order\(^{229}\) by an anthropocentric world order, which is also one of the foundational principles of democracy.

### 2.4.3.4.5. The Post-Conciliar Encyclicals in the backdrop of Vatican II

Pope John XXIII, who opened the Second Vatican Council with his programme of *aggiornamento* to update the Christian thought so as to renew it ever fresh and make it congenial to contemporary thought, set a new theological trend in the Church. It is to engage in dialogue with the world in a language, which the contemporary world understands. The most striking aspect of the Council’s theological innovation can be seen in the document *Gaudium et Spes* in its effort to formulate a theology for a democratic and urban society; and for a secularised culture in contrast to a sacræ...
world order of the past centuries, and for a dynamic and egalitarian society as opposed to a stable and aristocratic medieval social order.\textsuperscript{230}

The Church is no longer seen as a perfect society standing over against the perfect society of the \textit{Civitas}, but stands ready to serve all people, humbly conscious of what it can learn from history and from the social context.\textsuperscript{231} The documents of the Council, including the Pastoral Constitution \textit{Gaudium et Spes} - although the second apart of this document deals with many contemporary social, economic and political concerns - do not come under the category of the social teaching of the Church. Vatican II’s vision is broader in scope and less focused on specific social issues than they are addressed in the social encyclicals. However, for the first time, the Council provided an ecclesiological foundation for the social ministry of the Church that was missing in the previous social encyclicals.\textsuperscript{232}

This ecclesiological foundation arises from the nature of Church’s mission to proclaim the gospel of Christ to the world. The Council makes it clear that Christ “gave his Church no proper mission in the political, economic, or social order.”\textsuperscript{233} Nevertheless, from the religious mission, which he set before the Church, arises “a function, a light, and an energy which can serve to structure and consolidate the human community according to the divine law”.\textsuperscript{234} The Church’s ecclesial commitment to human dignity also receives a deeper foundation based on biblical anthropology in the horizon of christology.\textsuperscript{235} For, the Council states that by the mystery of the Incarnate Word, humankind created in God’s image, share in the filiation of God.

\textsuperscript{231} Walter M. Abbott, \textit{Documents of Vatican, op.cit.}, 185-186.
\textsuperscript{233} GS, article 42.
\textsuperscript{234} \textit{Ibid.}
\textsuperscript{235} This theme will be dealt with in detail in chapter 5. See section 2.5.4 : Human Dignity in Christological Horizon, pp. 355–357.

This christological insight into the mystery of God’s love revealed in Christ implies a social ethics to recognise the dignity and the rights of every human person. Therefore, \textit{Gaudium et Spes} brings out the grandeur of the vocation of humankind, their dignity and the fundamental rights that flow from it. Therefore, the Council stresses, “The root reason for human dignity lies in man’s call to communion with God”.\textsuperscript{236} This affirmation contains the essence of the Council’s teaching on the dignity of the human person.\textsuperscript{237} Its approach to the question of human worth is positive and optimistic.

Furthermore, the conciliar teaching has made it clear that social ministry of the Church is a constitutive element in the proclamation of the Gospel and the salvific mission of the Church. Faith in Christ and commitment to bring about the kingdom of God in all the spheres of human life is the basis for any political action or socio-economic programme.\textsuperscript{238} Hence, the Council calls the Church to fulfil its religious ministry in a way that protects human dignity, fosters human rights and contributes to the unity of the human family.\textsuperscript{239} The post-conciliar social encyclicals articulate this ecclesial mandate on specific issues and at specific levels of Church’s social ministry, namely local, national and international. Hence, following the conciliar path of dialogue and human solidarity, these encyclicals also underscore that this social enterprise is a joint venture with all people of good will.

2.4.3.4.5.1. Encyclical Letter \textit{Populorum Progressio} (1967)

The encyclical \textit{Populorum Progressio} (On the Development of Peoples) of Pope Paul VI, written in 1967,\textsuperscript{240} marks the next advance in the Church’s commitment to human dignity. This encyclical is a response to the alarming scale in which the gap between the rich nations and the poor nations has become widened.

\textsuperscript{236} GS, article 19.
\textsuperscript{237} \textit{Ibid.}, articles 11-22.
\textsuperscript{238} GS, articles 40-45, 76, 93
\textsuperscript{239} \textit{Ibid.}, article 41.
\textsuperscript{240} Paul VI, Encyclical Letter \textit{Populorum Progressio}, 26 March 1967 (Vatican Polyglot Press). It will be henceforth referred to as PP.
in terms of development. In this context, the new emphasis of the papal document is that human dignity bestowed by God demands total development of all nations. Commenting on the Christian vision of development, the encyclical *Populorum Progresso* states:

Development cannot be limited to mere economic growth. In order to be authentic, it must be complete: integral, that is, it has to promote the good of every man and of the whole man...In the design of God, every man is called upon to develop and fulfil himself, for every life is a vocation. At birth, everyone is granted, in germ, a set of aptitudes and qualities for him to bring to fruition. Their coming to maturity, which will be the result of education received from the environment and personal efforts, will allow each man to direct himself toward the destiny intended for him by his Creator. Endowed with intelligence and freedom, he is responsible for his fulfilment as he is for his salvation.

The new concept of development expounded in *Populorum Progressio* has three important insights for our study. Firstly, it stresses that human person in one’s totality - in the scholastic sense body and soul - is the image of God. Secondly, the encyclical claims that as the divine image on earth the dignity of the human person is protected only by promoting all round development and progress that benefits the whole person. Thirdly, the encyclical also reminds the world community about the need to cultivate spirit of human solidarity among peoples and nations, which would create favourable international concord and peace to work for the total development of the people and to sustain it for the promotion of human dignity on global level.

### 2.4.3.4.5.2. Encyclical Letter *Laborem Exercens* (1981)

In the year 1981, on the occasion of the ninetieth anniversary of

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241 Ibid., n. 3-4.
242 Ibid., n. 14.
243 Ibid., nn. 14 and 15.
244 Ibid., nn. 43-44.
245 Ibid., nn. 48-52.
246 John Paul II, Encyclical Letter *Laborem Exercens*, 14 September 1981 (Vatican Polyglot Press). It will be henceforth referred to as LE.
247 Ibid., nn. 4-6, 25-27.
248 It is worth mentioning here that right from the beginning of his pontificate, Pope John Paul II paid great attention to the doctrinal foundations of the social teaching of the Church. He stressed on two principles in all his social encyclicals. Firstly, he brought in a personalistic approach to social issues because human person as subject of action is central in his social thought. Secondly, he saw the meaning of human dignity in the mystery of Christ and, therefore, added a christological dimension to social questions (Cfr. Door, *op.cit.*, pp. 270-273).
249 Gregory Baum says that LE, by emphasizing the priority of labour over capital with the belief that capital is meant to serve labour and those who make up the labour force, brings in a significant development in the Church’s social teaching. See Gregory Baum, *The Priority of Labor* (New York, Paulist press, 1982), p. 3.
it is a process that takes place within each human being, in each conscious human subject.\footnote{LE, n. 4.}

John Paul’s creative reflection on work and dignity provide us with new insights on the theological meaning of divine image and human dignity. According to his encyclical \textit{Laborem Exercens} human dignity consists in the fact that human beings are persons in that they are subject of society.\footnote{\textit{Ibid.}, n. 6.} The theological reason for this conclusion is that created in God’s image and endowed with the mandate to “dominate the earth,” human beings reflect the very action of God and, therefore, in an analogous sense, they are subjects, just as God is subject \textit{per se}. This theological insight has been eloquently articulated at length by the Pontiff elsewhere:

Man has to subdue the earth and dominate it, because as the “image of God” he is a person, that is to say, capable of deciding about himself, and with a tendency to self-realization. \textit{As a person, man is therefore the subject of work}. As a person he works, he performs various actions belonging to the work process; independently of their objective content, these actions must all serve to realize his humanity, to fulfill the calling to be a person that is his by reason of his very humanity...

And so this “dominion” spoken of in the biblical text being mediated upon here refers not only to the objective dimension of work but at the same time introduces us to an understanding of its subjective dimension...This dominion, in a certain sense, refers to the subjective dimension even more than to the objective one: this dimension conditions \textit{the very ethical nature of work}. In fact there is no doubt that human work has an ethical value of its own, which clearly and directly remains linked to the fact that the one who carries it out is a person, a conscious and free subject, that is to say, a subject that decides about himself.\footnote{\textit{Ibid.}, n. 6.}

Hence, as image of God, endowed with the mandate to dominate the earth, human beings are persons and, therefore, they are subjects and, in virtue of which, work has its ethical value because the workers are conscious free subjects who, in the process of work, shape themselves and at the same time as subjects remain independent of the work done. It follows that Human subjectivity becomes the guiding norm for all society.

This theological insight, that human persons are subjects, has profound value potential for human life in the contemporary society, which is more and more getting controlled by the forces of market economy. First of all, it means that work is for the person, not vice versa; and all people are equal regardless of the sort of work they do. Secondly, it means that labour takes priority over capital. The Pope is emphatic in pointing out that giving priority to capital over labour involves a fundamental error of economism and materialism in which the person is subordinated to productive forces and material pleasure. Thirdly, there is scope for certain legitimate demands, such as living family wages, participatory economy and organisation of workers solidarity.\footnote{\textit{Ibid.}, nn. 6-8, 13, 19.} All this implies that work and labour conditions must be at the service of human person in his / her dignity as image of God in the society.

\textbf{2.4.3.4.5.3. Encyclical Letter \textit{Sollicitudo Rei Socialis} (1987)}

John Paul II’s subsequent social encyclicals, \textit{Sollicitudo Rei Socialis (On Social Concern)}, issued in 1987\footnote{John Paul II, Encyclical Letter \textit{Sollicitudo Rei Socialis}, 30 December 1987 (Vatican Polyglot Press). It will henceforth be referred to as SRS. This encyclical is written to commemorate the twentieth anniversary of \textit{Populorum Progressio} and builds further on the concept of Development in reference to the emerging nations of the Southern hemisphere. SRS criticizes liberal capitalism and Marxist collectivism and takes up the issues of the developing world and stresses on solidarity.} and \textit{Centesimus Annus (On The Hundredth Anniversary of Rerum Novarum)}, published in 1991,\footnote{John Paul II, Encyclical Letter \textit{Centesimus Annus}, 1 May 1991 (Vatican Polyglot Press). It will henceforth be referred to as CA. CA begins by summarizing the teaching of \textit{Rerum Novarum} and emphasizing momentous events and ideas.} continue to stress on human subjectivity while...
dealing with social questions. In *Sollicitudo Rei Socialis* the Pontiff says that the Church is concerned with social, economic and political problems of the contemporary times because human person is at the centre in all these sectors of society. Therefore, “at stake is the dignity of the human person, whose defence and promotion have been entrusted to us [the Church] by the Creator.” In *Sollicitudo Rei Socialis*, he observes, “it is always man who is the protagonist of development.”

Looking at the panoramic world of work, he comments that the perennial phenomena of human developments and achievements are the human responses to divine vocation given to humankind as image of God. He writes:

The story of the human race described by Sacred Scripture is, even after the fall into sin, a story of constant achievements, which, although always called into question and threatened by sin, are nonetheless repeated, increased and extended in response to the divine vocation given from the beginning to man and to woman (cf. Gen.1: 26-28) and inscribed in the image which they received.

It is logical to conclude, at least on the part of those who believe in the word of God, that today’s “development” is to be seen as a moment in the story which began at creation, a story which is constantly endangered by reason of infidelity to the Creator’s will, and especially by the temptation of idolatry. But this “development” fundamentally corresponds to the first premises. Anyone wishing to renounce the difficult yet noble task of improving the lot of man in his totality, and of all people, with the excuse that the struggle is difficult and that constant effort is required, or simply because of the experience of defeat and the need to begin again, that person would be betraying the will of God the Creator.”

The Pontiff envisages that in this way people will be able to face the hardship of work with a deep sense of meaning and purpose. Furthermore, he declares that people appreciate work only when the worker is treated as the subject of work and labour attains its due dignity of the one who does the work. In like manner, a nation will improve its work culture only when its citizens are treated as subject of the national life. It is because as image of God, people are subject of the work in all its dimensions to which God has endowed them in his calling. Hence, drawing on from the biblical source, the Pope reminds the world that as God’s image on earth, human persons stand for the spirit of initiative and creativity, the spirit of national progress, sovereignty and democracy.

One of the liveliest debates sparked by *Sollicitudo Rei Socialis* stems from the Pope’s treatment of the two dominant ideological blocs: the Marxist East and the capitalist West. When John Paul II introduces his discussion of the two blocs, his interest focuses on how each of them conceives the development of individuals and peoples. Without at first specifying any differences between them, he considers each of them to be seriously flawed. Both East and West harm the Third World because each in its own way widens the gap between the more developed and the less developed countries. This is a major reason, the Pontiff says, “why the Church’s social doctrine adopts a critical attitude towards both liberal capitalism and Marxists collectivism.”

The rigid ideologies of each bloc give rise to a spirit of imperialism and neo-colonialism, rather than to one of interdependence and solidarity. Between these two systems of thought, the Pope points out that the Catholic social teaching is “not a third way between liberal capitalism and Marxist collectivism. It constitutes a category of its own” based on the transcendent value of human dignity.

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2.4.3.4.5.4. Encyclical Letter Centesimus Annus (1991)

The concept of human subjectivity gains further accent in Centesimus Annus in which Pope John Paul II insists that the human subjectivity is known better through the theological insight about the "transcendent dignity" of the human person. The core of this insight comes up from the doctrine of the imago Dei in human person. It means that a "human person is the visible image of the invisible God."263

According to John Paul II the theological insight inherent in the imago Dei doctrine implies that every person in one's individuality is of a unique value before God. Therefore, human persons can never be reduced to any sort of utilitarian value. Every person is endowed with a transcendent calling to flourishing of life in communion with God. This transcendent calling has the value potential for enduring motivation to build the earthly city; but its immanent well-being does not exhaust it. Hence, a person by his/her very nature is the subject of rights and duties, which no individual, group, class, nation or State may violate. Not even the majority of a social body or a political community may violate these rights, by going against the minority, by isolating, oppressing or exploiting them or by any other means.265

The Pope qualifies human dignity as transcendent dignity because it comes from God’s free gift of creating human beings in God’s image whose final goal is the flourishing of human life in the blessed communion with God for which God is the final guarantor. It does not depend on human effort or any sort of accomplishment. All persons have fundamental equal dignity; inviolable rights and duties in protection of that dignity because all share the generous gift of creation and redemption from God and all are destined for eternal communion with God.266 This sort of theological perception about human dignity runs counter to the culture of competitive society where people generally believe that human dignity is something people earn by their own effort for themselves. It also goes against the totalitarian State, which "tends to absorb within itself the nation, society, family, religious groups and individuals themselves."267

In Centesimus Annus, the Pontiff indicates that the guiding principle of Church’s social teaching is the correct understanding of the human person as the subject of all social activities. He reiterates the Church’s position in the following passage:

[T]he main thread and, in a certain sense, the guiding principle of Pope Leo’s encyclical, and of all the Church’s social doctrine, is a correct view of the human person and of his unique value, in as much as “man…is the only creature on earth which God willed for itself”. God has imprinted his own image and likeness on man (cf. Gen 1:26), conferring upon him an incomparable dignity, as the encyclical frequently insists. In effect, beyond the rights which man acquires by his own work, there exist rights which do not correspond to any work he performs, but which flow form his essential dignity as a person.268

Therefore, Centesimus Annus asserts unambiguously and forcefully that "every individual - whatever his or her personal convictions - bears the image of God and therefore deserves respect". 269

Our survey of the social encyclicals leads us to see two things for our consideration. Firstly, these papal documents show the importance of the doctrine of imago Dei in defining human dignity and the concern of the Church to protect those values that support the dignity of human person in the society. Secondly, it directs us to see that in the recent social encyclicals the image doctrine is interpreted in personalist language. Human persons are the subjects of all human activities and institutions because they are image of

263 CA, nn. 44, 46.  
264 Ibid., n. 44.  
265 Ibid.  
266 Ibid., nn. 47, 53.  
267 Ibid., n.45.  
268 Ibid., n. 11.  
269 Ibid., n.22.
God. Thirdly, as a result, the recent social encyclicals also highlight personalist values, namely freedom, responsibility, participation, equality and solidarity as substantive values. Therefore, the human person in his / her subjectivity is seen as the centre of multiple relationships, namely with God, neighbour and world, and one is expected to act responsibly in these relationships. This is an important development in the Christian theology of the human person, which has high value significance for our time.

2.4.4. Conclusion: Divine Image and Human Dignity

We sum up our inquiry about the doctrine of the *imago Dei* and its significance to human dignity as developed in the Scripture and tradition of the Church. The Old Testament regards the image as universal. All people are the image of God. In that sense, the image doctrine denotes a divine endowment of universal human nature, which differentiates human beings from all other creatures on earth but uniquely relates them to God as persons. The theological raison d’etre for human dignity is God’s faithfulness to the bond of inter-personal communion that God established with humankind as persons in God’s calling them into existence in God’s image and to participate in God’s work.

In the context of the divine kingship ideology of ancient Near Eastern World, the Old Testament held that not the king or any one class of people alone the image God on earth but all people are created in the divine image and, therefore, all are born equal in dignity. This theological insight must be the reason for the Hebrew prophets to condemn acts of inhumanity as actions against the will of God, since such acts defaced the divine image in people.

In the New Testament the meaning of human dignity attains profound theological intensity through the mystery of the redemptive incarnation of Jesus Christ, the perfect visible image of the invisible God. It is because, in a unique and unrepeatable way, the paschal mystery is the intensification and concretisation of God’s already existing unbounded faithfulness to the bond of communion that God established with human beings at the beginning of the saving history by creating them in God’s image.

Hence, according to the christological hermeneutic of the image doctrine, created by God in God’s image and redeemed by the most precious blood of Christ, every person is called to be a child in the Son and a living temple of the Holy Spirit and destined for eternal life of blessed communion with God. For this reason, any violence against human dignity is an offence against God. This has been brought out in the New Testament by underscoring the ethics of love and respect for all people as God’s children beginning with the least in the society, even towards one’s enemy.

In the Christian tradition, the image doctrine is used generally to bring out the importance of human dignity and equality of all people. In this sense, image of God refers to universal human nature endowed with capacity for reason and freedom. The Patristic theologians came out with avant-garde ideas founded on image doctrine that eventually changed the social values and attitudes in the Greco-Roman world. Against Gnostic dualism and sectarianism which claimed salvation of the souls only and also reserved salvation only to select classes of people in the society, the Patristic theologians propagated values of universalism, egalitarianism and affirmative values towards the material world. They held as image of God, human person is a totality of body and soul. All are destined

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272 Gen 1:26b, 28b-29.
275 See above chapter 4, section 2.4.2: “Image of God and Christocentric Anthropology”, p. 253-255.
for salvation, including the material world, which would be transformed into the glory of God.277

Following the path of Augustine278 and Thomas Aquinas,279 Scholasticism spelt out the rational aspect of the image doctrine. Accordingly, as image of God, human dignity consists in human person’s capacity to know and love God that culminates in one’s friendship with God, which is made possible by God’s revelation in Christ.280 Human dignity also consists in the fact that through natural light of reason humans can know the divine law ordained in nature and to order life in the path of perfection.281 Furthermore, Scholastic philosophy stressed on the order of natural law known through natural light of reason. This laid the foundation for the eventual separation of the temporal order from matters spiritual. Consequently, it was also instrumental to set at liberty the secular sciences from the tutelage of theology as well as to recognise the legitimate autonomy of the secular order.

In the contemporary theological thought, the image doctrine is used as a theological resource for the legitimisation of a set of humanistic values, which affirm human dignity. On the basis of the image doctrine, advocacy for gender equality is held valid in the feminist theological debate as against patriarchy and androcentrism.282 In the Latin American theology of liberation, the image of God doctrine is one of the foundational principles to denounce every form of oppressive structure. The proponents of liberation theology hold that any act of dehumanisation is an infringement on the dignity of the human person created in God’s image as well as an affront to God. Similarly, in the eco-theological weltanschauung, insights from the imago Dei doctrine are adduced in support of humane echo-system appropriate to human dignity, since God has entrusted human persons with responsibility to protect the integrity of creation.

The dignity of the human person and their social nature constitute the leitmotif of the social encyclicals of the Popes.283 These are centred on the theology of human persons created in God’s image. The social teaching of the Church has been guided by these two principles of the theological anthropology. It views that human persons are ontologically endowed with a dignity of transcendent value in so far as they are created in God’s image, redeemed by Christ and destined to live in blessed communion with God.284 The social encyclicals present the social nature of the people as an essential quality of being created in divine image. Hence, as image of God, all persons are born equal in dignity and with inalienable right to defend that dignity. In their social nature, people are called to live in communions with God and in solidarity with one another in the society.

The Social encyclicals treat these two anthropological principles as guiding norms while dealing with social, political and economic matters to avoid extremes of liberalism and socialism so as to protect and defend human dignity, because the former is controlled by heartless individualism and the latter is dictated by faceless collectivism. Liberalism deifies reason and freedom and ignores social responsibility while socialism absorbs the individuals and social groups into the impersonal State mechanism and fails to recognise human dignity, rights and duties of the individual person. These findings from the long expanse of the Christian tradition lead us to investigate the systematic presentation of theological anthology of Gaudium et Spes and its historic contribution to the Christian theology of human dignity.

278 Augustine, De Trinitate, 14, 6,11.
279 Summa Theologiae, I, q. 93, a.8, sc.
283 Charles E. Curran, Catholic Social Teaching, op.cit., p. 132.
CHAPTER FIVE


2.5. Introduction

In this chapter we study the teachings of the Second Vatican Council on human dignity. We also point out that the Council has chosen the path of dialogue and collaboration with the world community to offer the service of the Church for the advancement of human dignity in the civil society. For this purpose, we study two documents of Vatican II, namely the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes, and the Declaration on Religious Freedom, Dignitatis Humanae.

First we study Gaudium et Spes. This document presents, for the first time in the Catholic Church’s teachings, a theological anthropology in a systematic form. It is centred on human dignity. The Council claims that its teaching is in continuation with the previous teachings of the Church. Vatican II’s approach to human dignity is based on the doctrine of imago Dei but seen in the christological horizon. In our research, we bring out the conciliar theology of human dignity, the centrality of human dignity in the structure of the theological anthropology of Gaudium et Spes and the doctrinal tenets of human dignity as given in the document. We also enquire how the Council presents the exalted character of human dignity when seen from the christological point of view as given in article 22 of Gaudium et Spes. This article has set the criterion of the Catholic Church’s approach to human dignity.

Secondly, we study the conciliar document Dignitatis Humanae. Based on the theology of human dignity as expounded in Gaudium et Spes, Vatican II developed, for the first time, the Catholic Church’s doctrines of religious freedom and its approach towards constitutional State. We study in this document the significance of the theology of human dignity to the principles of religious freedom and constitutional State, that is, a State with limited power in a free society. The modern concept of secular democratic State comes under this category. From the teachings of Gaudium et Spes and Dignitatis Humanae, we point out that the Church’s advocacy for constitutional State is based on the value of human dignity and in defence of it. This would set the stage for dialogue with the humanistic philosophy of Indian secularism as seen in the Constitution of India and the call of the Church in India for dialogue with the civil society in defence of human dignity.

2.5.1. The Church in Dialogue with the World to protect Human Dignity

The Second Vatican Council, shaped by the Pontiffs John XXIII and Paul VI, had a grand design for the Catholic Church’s relationship with the world. It involved, on the part of the Church, a paradigm shift from isolation to participation and from confrontation to dialogue with contemporary world. The world is understood as the secular order of politics, knowledge - comprising of culture and science, economics and international affairs. Pope John XXIII

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1 Hereafter it will be referred to as Gaudium et Spes.
2 Hereafter it will be referred to as Dignitatis Humanae.
3 Cf. GS, article 91.
4 DH, article 1, para 5.
5 Keeping in mind the wishes of the late Pope John XXIII and his immediate successor Paul VI, the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes, at the conclusion of its deliberations speaks of the Church’s awareness of its mission to stand forth “as a sign of that brotherliness which allows honest dialogue and invigorates it.” The Constitution claims “the desire for such dialogue, which can lead to truth through love alone, excludes no one...We include those who cultivate beautiful qualities of the human spirit, but do not yet acknowledge the Source of these qualities...We include those who oppress the Church and harass her in manifold ways.” GS, article 92.
saw them as challenges and opportunities for the mission of the Church in the world to collaborate with all people of good will in building up the family of humankind in a manner appropriate to human dignity. This he spelt out in his Apostolic Constitution “Humanae Salutis”\(^6\) issued for the convocation of the Council. Looking at the painful world scene from the pastoral point of view, he wrote:

Today the Church is witnessing a crisis under way within society. While humanity is on the edge of a new era, tasks of immense gravity and amplitude await the Church, as in the most tragic periods of its history. It is a question in fact of bringing the modern world into contact with the vivifying and perennial energies of the gospel, a world which exalts itself with its conquests in the technical and scientific fields, but which brings also the consequences of a temporal order which some have wished to reorganize excluding God. This is why modern society is earmarked by a great material progress to which there is not a corresponding advance in the moral filed.

Hence there is a weakening in the aspiration toward the values of the spirit. Hence an urge for the almost exclusive search for earthly pleasure, which progressive technology places with such ease within the reach of all. And hence there is a completely new and disconcerting fact: the existence of a militant atheism which is active on a world level.\(^7\)

At the same time, he saw reason for confidence and hope in the midst of these tragic events of the contemporary world and to assume pastoral responsibility. He also realised that ecclesial responsibility had to be carried out in collaboration with all people of good will to work for a world order of peace and amity beneficial to the dignity of humankind created in the image of God and redeemed by Christ. He added:

These painful considerations are a reminder of the duty to be vigilant and to keep the sense of responsibility awake. Distrustful souls see only darkness burdening the face of the earth, we, instead, like to reaffirm all our confidence in our Savior who have not left the world which he redeemed… The bloody wars that have followed one on the other in our times, the spiritual ruins caused by many ideologies, and the fruits of so many bitter experiences have not been without useful teachings. Scientific progress itself, which gave man the possibility of creating catastrophic instruments for his destruction, has raised questions. It has obliged human beings to become thoughtful, more conscious of their own limitations, desirous of peace, and attentive to the importance of spiritual values. And it has accelerated the progress of closer collaboration and of mutual integration toward which, even though in the midst of a thousand uncertainties, the human family seems to be moving. And this facilitates, no doubt, the apostolate of the Church, since many people who did not realize the importance of its mission in the past are, taught by experience, today more disposed to welcome its warnings.\(^8\)

It was precisely in this existential scenario of the contemporary world of great scientific achievements and, at the same time, a world known for terrible human suffering and oppression, Pope John XXIII saw the historic importance of the Second Vatican Ecumenical Council for the Church and its ministry to the secular world.\(^9\) Hence, in his opening speech to the Council, he announced that the Council was expected to equip its faithful with sound doctrine and spiritual vitality so as to give the Church the possibility of contributing more efficaciously in solving the problems of the contemporary society.\(^10\)

In his opening speech to the Council, the Pope made it known to the world community that the Church is aware of the world’s problems and its painful experiences.\(^11\) He also made it clear to all

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\(^7\) Ibid., pp. 703-704.

\(^8\) Ibid., p. 704.

\(^9\) See “Pope John’s Opening Speech to the Council”, ibid., pp.710-719.

\(^10\) Ibid., pp. 714-715.

\(^11\) Ibid., p. 716.
peoples of the nations the keen desire of the Church to bring unity among Christians and unity among peoples by way of compassionate dialogue and cooperation to advance the cause of peace, and social justice and whatever concerns to the dignity of the people as God’s children. In particular, stressing on what the Church can offer from its spiritual heritage to protect and promote these values and to foster solidarity among peoples, he said:

[The Church does not offer to the men of today riches that pass... But she distributes to them the goods of divine grace which, rising men to the dignity of sons of God, are the most efficacious safeguards and aids towards a more human life. She opens the fountain of her life-giving doctrine which allows men, enlightened by the light of Christ, to understand well what they really are, what their lofty dignity and their purpose are, and, finally, through her children, she spreads everywhere the fullness of Christian charity...in eradicating the seeds of discord, nothing more efficacious in promoting concord, just peace, and brotherly unity of all.]

Most of the social concerns of the Church outlined in the Pope’s opening speech to the Council became the matter for theological reflection in the Pastoral Constitution, Gaudium et Spes. These reflections have been centred on human dignity as seen in the light of the mystery of Jesus Christ, the incarnate image of the invisible God.

Thus the social ministry of the Church, which began with the Leonine Encyclical Letter Rerum Novarum (1891) to promote and defend human dignity in all sectors of human life in the society, gained ecclesiological validation in the Second Vatican Council’s documents, Gaudium et Spes and Dignitatis Humanae. In other words, the Church’s social service to the world is no longer treated as an addition to its pastoral ministry but regarded as an integral part of its evangelising mission because the Church is concerned with human persons and their vocation, a vocation, which is at once earthly and transcendent in character.

This has been made clear in Gaudium et Spes in the context of Church’s ministry to civil society. The document states, “The role and competence of the Church being what it is, she must in no way be confused with the political community, nor bound to any political system. For she is at once a sign and safeguard of the transcendence of the human person.” It is the centrality of human person in the mission of the Church, which has been reiterated in the Preface to Gaudium et Spes. It declares, “[T]he pivotal point of our total presentation will be man himself, whole and entire, body and soul, heart and conscience, mind and will.”

The commitment of Vatican II to human persons as God’s image, its unflagging emphasis on the sacredness of every man and woman and its interest for dialogue to cultivate solidarity with peoples all over the world have been further made known to the world community by John XXIII’s immediate successor, Pope Paul VI. In his closing homily to the Council, Paul VI pointed out that the Council condemned none. There was no place for constructing enemy image of even those who were hostile to Church and humanity. But the over all perspective and the tenor of the Council was love and compassion for the humanum and respect for the dignity of humanity. The Pope reminded the world community:

We prefer to point out how charity has been the principal religious feature of this Council. With such a basic orientation, no one can accuse the Council of irreligious or infidelity to the gospel. We recall that Christ Himself taught us that love for our brothers is the distinctive mark of His disciples (John 13:35); when we listen to the words of the Apostle: “If he is to offer service pure and unblemished in the sight of God, who is our Father, he must take care of orphans and widows in their need, and keep himself untainted by the world” (James

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12 Ibid., pp. 715-717.
13 Ibid., pp. 716-717
14 See especially GS, article 11, para 3.
1:27) and again: “He has seen his brother, and has no love for him; what love can he have for the God he has never seen?” (1 John 4:20).

Yes, the Church of the Council has been concerned, not just with herself and with her relationship of union with God, but with man - man as he really is today: living man, man all wrapped up in himself, man who makes himself not only the centre of his every interest, but dares to claim that he is the principle and explanation of all reality. Every perceptible element in man, every one of the countless guises in which he appears, has, in a sense, been displayed in full view of the Council Fathers, who, in their turn, are mere men, and yet all of them are pastors and brothers whose position accordingly fills them with solicitude and love…

Secular humanism, revealing itself in its horrible anticlerical reality has, in a certain sense, defied the Council. The religion of the God who became man has met with religion…of man who makes himself God. And what happened? Was there a clash, a battle, a condemnation? There could have been, but there was none. The old story of the Samaritan has been the model of the spirituality of the Council. A feeling of boundless sympathy has permeated the whole of it. The attention of our Council has been absorbed by the discovery of human needs…But we call upon those who term themselves modern humanists, to give the Council credit at least for one quality, and to recognize our own type of humanism. We too, in fact, we more than any others, honor mankind.19

With the promulgation of the Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, on December 7, 1965, “dialogue between all men”20 has been proclaimed as a proper pastoral approach of the Catholic Church towards the contemporary world.

Pope Paul VI in his encyclical letter *Ecclesiam Suam*,21 which he issued, while the Second Vatican Council was in session, explained the practical reason for this historic decision:

Clearly, relationships between the Church and the world can be effective in a great variety of ways. The Church could perhaps justifiably reduce such contacts to a minimum, on the plea that its wishes to isolate itself from secular society. It might content itself with conducting an inquiry into the evils current in the secular society, condemning them publicly, and fighting a crusade against them. On the other hand, it might approach secular society with a view to exercising a preponderant influence over it, and subjecting it to a theocratic power; and so on.

But it seems to Us that the sort of relationship for the Church to establish with the world should be more in the nature of a dialogue, though theoretically other methods are not excluded. We do not mean unrealistic dialogue. It must be adapted to the intelligences of those to whom it is addressed, and it must take account of the circumstances. Dialogue with children is not the same as dialogue with adults, nor is dialogue with Christians the same as dialogue with non-believers. But this method of approach is demanded nowadays by the prevalent understanding of the relationship between the sacred and the profane. It is demanded by the dynamic course of action which is changing the face of modern society. It is demanded by the pluralism of society, and by the maturity man has reached in this day and age. Be he religious or not, his secular education has enabled him to think and speak, and conduct a dialogue with dignity.22

In the above passage, the Pontiff spells out why the Church opts for dialogue approach towards secular society in its service to contemporary world. He also refers to the two previous approaches that the Church pursued towards the secular society: one followed

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20 Cf. GS, article 92.
22 Ibid., nn.78-79.
a policy of minimal approach and the other held a policy of maximal approach towards secular order. He also hints at their legitimacy, because they were based on the spiritual and temporal nature of the Church. However, he rejects both since they don’t correspond with the maturity of contemporary secular ethos, which sees the relationship between the secular and the sacred in a healthy way and remains committed to a culture of human dignity. This needs explanation, which we present below.

In the past centuries, both approaches (minimal and maximal) claimed for their justification by their respective one-sided emphasis of the “divine and human constitution” of the Church. 23 The first approach (the minimal approach) strived for a policy of separation of the Church from the world and tended to maintain a minimum required functional relationship with the world. The second approach pursued a policy intended to exert maximum influence on the secular realm so as to dominate it. The first approach was apocalyptic and otherworldly in its attitude towards the world. It despised the “earthly” by overemphasizing the “spiritual” and the “heavenly.” In this approach, the Church became suspicious and distrustful on matters secular. The second approach kept up a sort of utopian temptation towards the secular order in that it used the secular realm as instrument of religion and then destroyed the autonomy proper to the secular order so as to build a Christian society, societas Christiana.24

The first approach was prevalent in the early centuries of Christianity at a time when the Church was a persecuted community in the Roman Empire. This world-negating sort of spirituality eventually got into the Christian monastic tradition in different ways.25 The second approach reached its zenith in the medieval European civilization, known as the Western Christendom. Contrary to the apocalyptic and utopian approaches of the past, Vatican II acknowledges the autonomy and order proper to the secular realm as ordained by God.26 Therefore, the Council opts for dialogue and solidarity between the Church and secular world, including the political community, because the spiritual and temporal realms are meant for the human person who is the crown of creation.27 Moreover, the contemporary society is also marked out by such values as freedom, equality, solidarity, world peace and cooperation. These values are affirmative of human dignity. They are also the concerns of the Church in its mission for the world.28

2.5.1.2. Conciliar Design of Dialogue on Three Levels

Vatican II spelt out the Catholic Church’s dialogue with the contemporary world on three levels, namely ecumenical dialogue, interreligious dialogue and dialogue with the secular world. Once again, we need to look at Ecclesiam Suam, which is written in the ambiance of Council’s openness to the world, to understand better these three levels of dialogue. Paul VI, who sets forth the road map for dialogue in Ecclesiam Suam, makes clear that dialogue is not merely a matter of policy. From the Theological point of view, it is based on God’s free initiative of revealing God’s love to humankind and God expects a free response. God’s revelation discloses God’s own intimate life with humankind and God invites all people to that divine life. These theological insights are repeated in the conciliar documents published one year after the publication of Ecclesiam Suam.29

23 Crf. Pius XII’s Encyclical Letter Mystici Corporis [AAS 35 (1943), pp. 221 ff].
Cr. SC, article 2; LG, article 8. It Suffices for us to read the text of Lumen Gentium which explains the divine and human aspects of the Church: “Christ the one Mediator, established and ceaselessly here on earth His holy Church, the community of faith, hope and charity, as a visible structure...But the society furnished with hierarchical agencies and the Mystical Body of Christ are not to be considered as two realities, nor are the visible assembly and the spiritual community, nor the earthly Church and the Church enriched with heavenly things. Rather they form one interlocked reality, which is comprised of a divine and a human element. For this reason, by an excellent analogy, this reality is compared to the mystery of the incarnate Word”. (LG, article 8, para 1).


26 GS, article 36.
27 Ibid., article 12, para 1.
28 Ibid., article 9. For a detailed discussion on this point see Bernd Groth, op.cit., 184-188; Herve Carrier, op.cit., pp.455-458.
29 ES, 56; NA, articles 2-3; AG, articles 16, 34, 41; GS, article 28. It is note
In this backdrop, Paul VI distinguishes in *Ecclesiam Suam*, by way of concentric circles, four classes of people with whom the Church must enter into dialogue in its mission in the contemporary world.\(^30\) The first circle is the widest circle.\(^31\) It comprises all people. There is scope for dialogue with all on the common problems and challenges of human life that affect all, and on the need to cultivate fundamental human values needed for humane temporal order. In the second circle, the Church reaches out to all believers.\(^32\) It came to be known as interreligious dialogue. In the third circle Christians meet in the fellowship of their faith for unity among Churches, known as interecclisial dialogue or ecumenism.\(^33\) The fourth circle or the inner most circle consists of the Catholics who are also in need of engaging themselves into dialogue to sort out problems arising among them and to solve them not by fighting but in amity, known as intra-ecclesial dialogue.\(^34\) Thus, the first three circles comprise the Catholic Church’s dialogue with others.

No one is excluded from the path of dialogue intended to work for human welfare and dignity because these are substantive human concerns that belong to all people. The Pope writes:

> The first of these circles is immense. Its limits stretch beyond our view into the distant horizon. It comprises the entire human race, the world…All things human is our concern. We share with the whole of the human race a common nature, a common life, with all its gifts and all its problems. We are ready to play our part in this primary, universal society, to acknowledge the insistent demands of its fundamental needs and to applaud the new and often sublime expressions of its genius. But there are moral values of the utmost importance which we have to offer it. These are of advantage to everyone. We root them firmly in the consciences of men…Wherever the councils of nations come together to establish the rights and duties of men, we are honoured to be permitted to take our place among them. If there is in man a “soul that is naturally Christian,” we wish to respect it, to cherish it, and to communicate with it.\(^35\)

Hence, we see in *Ecclesiam Suam* the realisation of the Church that it must go out of its limited circle of followers and beyond the circle of the followers of Christ and even beyond the circle of believers in God and reach out to all people on account of their God given dignity as God’s image. Church in its mission to the world needs to give witness to its love for all peoples and its respect for the dignity and freedom of every human person by committing itself to promote these values. It needs to involve itself in collaboration with all people of good will in the task of nurturing in the world of today unity, love and peace in a manner that is helpful for people to live in dignity.

In this context, the path of dialogue envisaged by the Council involves three levels of dialogue. Firstly,\(^36\) it consists in dialogue with Churches and ecclesial communities (ecumenical dialogue). It is given in the conciliar Decree on Ecumenism (*Unitatis Redintegratio*).\(^37\) The first chapter of this document is most important because it lays down the Catholic principles of interchurch relationship.\(^38\) It exposes the mystery of the Church’s unity as that of a dynamic communion in faith and sacramental life, at once visible and invisible. It affirms that this communion is realised, according to the will of Christ, in the Catholic Church governed by the Pope and the bishops in communion with him.

The ecclesial reality and the salvific efficaciousness of the other Christian Communities are also affirmed. They are said to be in

\(^{30}\) ES, nn.93-117.
\(^{31}\) Ibid., nn.97-106.
\(^{32}\) Ibid., nn.107-108.
\(^{33}\) Ibid. nn.109-112.
\(^{34}\) Ibid., nn.113-115.
\(^{35}\) Ibid., n.97.
\(^{36}\) The order of three sectors of dialogue as we have given here is only numerical arrangement but not the order of priority.
\(^{38}\) UR, articles 3-4.
real, though imperfect, communion with the Catholic Church. The ecumenical communion that has been hoped for is seen as enriching and perfecting not only the other Churches, but also the Catholic Church. Another positive contribution of this document is the recognition that there is a hierarchy of truths. Therefore, not all the truths of Catholic doctrine are equally connected with the fundamental Christian faith. Ecumenical fellowship should contribute to the appreciation of human dignity and peace among people.

The second conciliar path of dialogue is dialogue among religions. As a result, Vatican II’s Declaration on the Relationship of the Church to non-Christian Religions, Nostra Aetate, is the first conciliar document dealing directly and explicitly with religions and calling for dialogue. While maintaining unshaken the belief in the uniqueness and universality of Jesus Christ in the divine plan of salvation, the entire document breathes an atmosphere of respect and appreciation to religions.

Nostra Aetate sees religions in the broad context of humankind’s common origin and destiny, and their search for ultimate questions that beset them. It states:

For all peoples comprise a single community, and have a single origin, since God made the whole race of men dwell over the entire face of the earth (cf. Acts 17:26). One also is their final goal: God. His providence, His manifestations of goodness, and His saving designs extend to all men (cf. Wis.8: 1; Acts 14:17; Rom. 2:6-7; 1 Tim.2: 4) against the day when the elect will be united in that Holy City ablaze with the splendour of God, where the nations will walk in His light (cf. Apoc.21: 23 f).

The second article of the Nostra Aetate gives a positive description about religions and exhorts Christians that they may “prudently and lovingly, through dialogue and collaboration with the followers of other religions, and in witness of Christian faith and life, acknowledge, preserve, and promote the spiritual and moral goods found among men, as well as the values in their society and culture.” The document denounces all forms of discrimination among people on the ground of “race, color, condition of life, or religion” because it is against the dignity of the people created in God’s image.

2.5.2. Dialogue with the Secular World

The third area of dialogue is the secular order with which the Church wishes to collaborate. It is given in the Pastoral Constitution on the Church in the Modern Word, Gaudium et Spes, and the Declaration on Religious Freedom, Dignitatis Humanae. These documents are centred on the theology of human dignity. The Church’s dialogue with this sector of society as provided in these documents is the matter for our study in this chapter. The aforementioned documents were among the most controversial documents debated on the floor of the Council, since they scored a definite break-through in the attitude of the Church towards the contemporary world. There are three concepts frequently occur in these documents in connection with the theology of human dignity in the context of secular society. These are ‘world’, ‘Church’ and ‘dialogue’. At the outset of our study, we explain their theological significance.

2.5.2.1. The Concept of World

The concept ‘world’ is polysemous in nuance as used in the Pastoral...
Constitution. In the preamble of the Constitution alone it appears many times with wide-ranging emphasis. Generally the concept ‘world’ means the totality of reality created by God and sustained by his love. The Pastoral Constitution Gaudium et Spes takes a positive approach towards the world because God saw that it was “very good.”

Moreover, though the world has fallen into the bondage of sin, it is good because Christ redeemed it and renews it in him and waits for the final restoration in the glory of God. In Gaudium et Spes the concept ‘world’ is used very much in the biblical sense referring to the world of humankind, especially as used in the Johannine Gospel. On the one hand John depicts the world as God’s creation, object of God’s love, on the other, the world as refusing the light of life coming from God.

The Pastoral Constitution sees the meaning of the world in the light of Trinitarian theology. It understands God not as an outsider to the world, but the permanent mover, who is in the depth of the world, and “constitutes its ontological impulse towards accomplishment, the real promotor mundi.” Hence, the world is not only related to the Creator but also to the Redeemer and the Sanctifier who fills the earth. Gaudium et Spes describes, “[T]he same God is Savior and Creator, Lord of human history as well as of salvation history.” In the present condition of existence, the world is under the all-pervading influence of the Holy Spirit. Consequently, the Pastoral Constitution Gaudium et Spes sees the world from the theological perspective and declares, “[T]he earthly and the heavenly city penetrate each other.” It avoids the dichotomy between the sacred and the secular, the spiritual and the earthly; but maintains their distinction and respects the autonomy and order proper to the earthly realities endowed by God.

In Gaudium et Spes the concept ‘world’ is used more specifically as a comprehensive concept of theological anthropology referring to humankind’s calling in life in the world as image of God. For this reason, the concept ‘world’ connotes the existential state of affairs of the family of humankind with all earthly realities and temporal tasks that the people are called upon to perform during their life on earth in a manner fitting to their dignity as image of God. Gaudium et Spes places the Church in dialogue with this world of secular realities. The preamble of the document comments about this world of temporal realities and says:

Therefore, the Council focuses its attention on the world of men, the whole human family along with the sum of those realities in the midst of which that family lives. It gazes upon that world which is the theatre of man’s history, and carries the marks of his energies, his tragedies, and his triumphs; that world which the Christian sees as created and sustained


Articles 2 and 3 constitute the preamble of the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes.

GS, article 12, para 6; Crf. Gen 1:31.

Ibid., article 2, para 2.

Crf. Ibid., articles 2, 13.

In opposition to the prevalent Gnostic dualism of the time, John states in his Gospel, “all things were made through him.” [through the Logos] (Jn 1:3). Finally the Logos was made flesh and so became part of this world to bring it to salvation as he states, “God so loved the world that he gave his only Son, that whoever believes in him should not perish but have eternal life.” (Jn 3:16).

Yet the same Gospel depicts the world as hostile to God’s light and life. There is a conflict: “The light shines in the darkness and the darkness has not overcome it.” (Jn 1:5), etc.


GS, article 41, para 6.

Ibid., articles 22, para 6; and 41, para 2.

Ibid., article 40, para 4.

Ibid., article 36.


Articles 1 and 2 make up the preamble of the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes.
by its Maker’s love, fallen indeed into the bondage of sin, yet emancipated now by Christ…so that this world might be fashioned anew according to God’s design and reach its fulfilment.62

Hence, Church’s dialogue with the world means dialogue with the contemporary secular society. It is distinct from ecumenical dialogue and interreligious dialogue as these are separately dealt with on different levels and aspects in other conciliar documents.63

2.5.2.2. The Concept of Church

Church is another important concept which occurs often in most of the articles of Gaudium et Spes.64 Yves Congar suggests that the Pastoral Constitution Gaudium et Spes follows the definition of the Church as given in the Dogmatic Constitution on the Church, Lumen Gentium.65 This needs explanation. The ecclesiology of the Second Vatican Council begins with the key image of Church as the sacrament of God’s communion 66 with all peoples and of the unity among them.67 The Council goes on explaining that this communion wished by God is actualised in the image of the Church as “the People of God” of the New Covenant, 68 which has Christ as head. This plan of the Church is in accordance with the universal saving plan of God the Father, who has revealed himself in a fully open and irrevocable way in the mission of the Son, and through the mission of the Holy Spirit preserves its integrity in time and space until the eschatological consummation, when God will be all in all.69

The predominant image of Church as used in the Pastoral Constitution is, however, that of the people of God (populus Dei),70 though the concept ‘people of God’ as such is used only sparingly. The reason for its judicious use seems for the following reasons. First of all, it is to avoid the wrong impression that as people of God Christians might be regarded as a segregated group, a kind of set aside religious sect from the rest of the people in the secular society.71 Secondly, it is to keep away from the impression that the Church as a people of God is ‘a people’ or ‘a nation’ existing side by side with the rest of the people in a civil society, a sort of “tertium genus” in the sociological sense. It has been pointed out that the concept “Ecclesia” (Church) is frequently used in the pastoral Constitution because it has the advantage of being generally accepted by the civil society without prejudice.72

In Gaudium et Spes the concept ‘Church’ portrayed as the People of God is not something separated from the world but exists in the midst of the world, living and acting with it and sharing the joys and anxieties of all the peoples of the world.73 As a community reborn in Christ, it is sanctified as a whole74 but this does not isolate its believers from their earthly tasks. The primary emphasis in the mystery of the Church finds its concrete expression and realization in a historical people (cf. LG, article 9). It is a sacramentally structured community of believers in Christ who continues his saving work through them (cf. LG, articles 10-11). This chapter keeps stressing on the common dignity and vocation of all members of the Church.

62 Ibid., article 2, para 2.
65 Ibid., p. 223; cfr. LG, Chapter I and II (articles 1-17).
66 For a critique of the model of the Church as mystery of communion see Angel Anton, “Postconciliar Ecclesiology: Expectations, Results, and Prospects for the Future”, op.cit., pp.416-420.
67 See LG, Chapter I, articles 1-8.
68 See ibid., Chapter II, articles 9-17, especially article 9. Chapter II of the Dogmatic Constitution, Lumen Gentium, is devoted to the imaging of the Church as the “people of God.” This title, sourced from the Scripture, highlights the historical, human and communion aspects of the Church, rather than on the institutional and hierarchical aspects, which have sometimes been over stressed in the past. “People of God” refers to the entire communion and fellowship of believers in Christ in the Church, the pastors and laity. Lumen Gentium highlights that...
**Gaudium et Spes** is that by its very vocation of sanctification, the Church as People of God is called upon to follow the path of Christ in loving and serving the world in the task of building up the earthly city as the integral part of its calling in the world. This has been vividly expressed in the concluding article of the document that reminds Christians:

Mindful of the Lord’s saying: “By this will all men know that you are my disciples, if you have love for one another” (Jn. 13:35), Christians cannot yearn for anything more ardently than to serve the men of the modern world ever more generously and effectively. Therefore, holding faithfully to the gospel and benefiting from its resources, and united with every man who loves and practices justice, Christians have shouldered a gigantic task demanding fulfilment in this world. Concerning this task they must give a reckoning to Him who will judge every man on the last day.75

In the task of building the earthly city the Church, moreover, recognises the positive values and the autonomy of the secular realm and does not reduce the world to the role of mere means of getting to heaven.76 The Church seeks to sanctify and consecrate the world in its secular order as endowed by God in harmony with the transcendent purpose of all things according to the Maker’s design.77

### 2.5.2.3. The Concept of Dialogue

The Pastoral Constitution *Gaudium et Spes* envisages the Church’s relation to the world specifically in terms of dialogue. The starting point of this dialogue is the anthropological crisis of the contemporary world, which consists in the question about the essential nature, and meaning of human existence. This has been repeatedly stated in the document.78 The dialogical approach of the Church towards the secular society furnishes the Church with a twofold purpose. Firstly, the Church labours with others to decipher through dialogue the authentic signs of God’s presence and purpose in the happenings, needs and desires of the contemporary world. In this existential context, the Church shares with the world “the light of Christ, the image of the unseen God,”79 to recall to people the transcendent dignity of their calling in life and to show its supremely human character.80 Secondly, the Church encourages Christians for active involvement in shaping the world in a manner that resonates with these noble human values of life.81 This includes a search together with others in the civil society to find solutions to the basic problems of the people and to engage with them in discussion to solve these problems in a most effective way.82

The dialogical move towards the world involves on the part of the Church to follow the principles of coexistence and cooperation with the civil society, in all matters of human concern to streamline a humanistic world order that is affirmative of the substantive values of human dignity. In this way the Church shares with the world the gift of the Gospel of Christ, its founder.83 It is one of the crucial and far reaching decisions of the Council that it changed the Church’s defensive attitude of the past into a positive and proactive approach towards the secular world in terms of solidarity and dialogue.84

### 2.5.3. The Theology of Human Dignity in *Gaudium et Spes*

All that we have explained in the previous sections about the conciliar concept of world, Church and dialogue in their specific meaning, lead us to look into the theology of human dignity as it emerges from the articles of the Pastoral Constitution *Gaudium et Spes*. The Council’s call for dialogue between the Church and the world

75 GS, article 93, para 1.
76 Cf. Ibid., articles 36,47,56,76.
77 Cf. Ibid., articles 34, 39, 42,42.57. For an over all interpretation of the role of the Church in the World as given in the Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes* see Yves Congar, “The Role of the Church in the Modern World”, in CD, *op.cit*., vol. 5, pp. 213-221.
78 See GS, articles 10, paras 1, 6, 7; 11, para 3; 12, paras 1, 2, 3.
79 Ibid., article 10, para 8.
81 Ibid., articles 2, 40.
82 Ibid., article 1, para 1.
83 Ibid., article 3, para 2.
84 Ibid., article 3, para 1; article 40, para 1; article 92, paras 1, 2, 3.
is based on the Christian anthropology, which is centred on the
teology of human dignity.\footnote{Charles E. Curran, \textit{Catholic Social Teaching}, \textit{op.cit.}, pp. 131-132.} It envisages that created in the image
of God\footnote{GS, article 12.} and redeemed by Christ,\footnote{\textit{Ibid}, article 22. We study the christological aspect of the human dignity in
chapter 5, section: 2.5.4: “Human Dignity in the Christological Horizon”, pp.355-357, ff.} every person in his or her
transcendent dignity\footnote{\textit{Ibid}	extit{.}, articles, 12, 19.} is the centre and subject of all activities in
the world.\footnote{Pope John Paul II developed on this perspective of human person in his
encyclicals and expounded the concept that human person is the subject of all
activities, rights and duties in the world. He qualified human dignity as
current dignity. We have studied his thought on this subject in our previous
chapter. For detail see above chapter 4, sections 2.4.3.4.5.3: “Encyclical Letter
\textit{Sollicitudo Rei Socialis} (1987)”, pp. 306-308, ff.} This Christian vision of human dignity as articulated in
the \textit{Gaudium et Spes} needs elucidation. It is given in concise form
in article 12, which sets forth the basic theological structure\footnote{We study the theological structure of the entire \textit{Gaudium et Spes}, which is
centred on the concept of human dignity in the section that follows.} of the
entire exposition of this document. The relevant portion of the
article states:

For sacred Scripture teaches that man was created “to the
image of God”, is capable of knowing and loving his creator,
and was appointed by Him as master of all earthly creatures
that he might subdue them and use them to God’s glory.
“What is man that thou art mindful of him or the son of man
that thou visited him? Thou hast made him a little less than
the angels, thou hast crowned him with glory and honor:
thou hast set him over the works of thy hands, thou hast
subjected all things under his feet” (Ps. 8:5-6).

But God did not create man as a solitary. For from the
beginning “male and female he created them” (Gen. 1:27).
Their companionship produces the primary form of
interpersonal communion. For by his innermost nature man
is a social being, and unless he relates himself to others he
can neither love nor develop his potential.

\footnote{GS, article 12, paras 4-6.} Therefore, as we read elsewhere in Holy Scripture, God
saw “all the things that he had made, and they were very
good” (Gen. 1:31).\footnote{\textit{Ibid}, p. 119.}

The above quoted passage from \textit{Gaudium et Spes} contains a
set of fundamental principles of theological anthropology. They are
collated from the Bible and patrology.\footnote{Yves Congar, “The Role of the Church in the Modern World”, \textit{op.cit.}, pp. 203-
204; for a critical study on this subject see A. O. Erhueh, \textit{op.cit.}, pp.126-128.} The passage depicts a
dynamic narrative about human person. The conciliar document
highlights in this text three important aspects of human dignity,
namely the dignity of the human person in relation to God, which is
to be construed as human capacity for communion with God (capax
\textit{Dei}); the dignity of human activities in the world, which stands for
the dignity of work; and the dignity of societal life, which means
human calling in life to live in community that articulates the relational
nature of human being.

Among them, the first constitutes the religious dimension of
human life and the other two are concerned with life in the secular
world of temporal realities. The first is the horizon and in its
background radiance the other two aspects of human dignity, namely
the dignity of human activities in the world and the dignity of the
social life are explained. Hence, the Pastoral Constitution on the
Church in the Modern World, \textit{Gaudium et Spes}, as the title of the
document suggests, deals with a special emphasis on the dignity of
humankind’s vocation in the world but invariably in the irresistible
aura of their transcendent vocation for communion with God\footnote{GS, article 21, para 3 says, “[T]his dignity is rooted and perfected in God”.}
who is the \textit{terminus a quo} (the beginning) and the \textit{terminus ad
quem} (ultimate end) of human dignity.\footnote{GS, articles 2, 12, 13, 19, 21, 22, 24, 41, 76, 91. Our references do not claim to
be exhaustive.} This is frequently repeated
throughout the document.\footnote{For a critical study on this subject see A. O. Erhueh, \textit{op.cit.}, pp.126-128.}

First of all in article 12 of the \textit{Gaudium et Spes} the Council
makes a categorical distinction between the content or the essential
meaning, and the essential consequences of creating human persons in God’s image. Taking its cue especially from Augustine's thought,96 Gaudium et Spes interprets the essential content of the “image of God” (imago Dei) as capacity for God (capax Dei)97 qualifying it as capacity for “knowing and loving” God, which is the foundation of human transcendence. Knowing and loving are also interpersonal concepts.98

In other words, the conciliar document Gaudium et Spes reiterates the classical theological proposition that human persons are image of God because God has endowed them with capacity for God, to have communion with God.99 Capacity for God (capax Dei) is the essential nature of human persons as having created in the image of God. Hence, the fundamental reason for the dignity of the human persons is that they are created with capacity for absolute openness towards God, which constitutes the other-orientation of the human person, that is, human transcendence. Human person’s capacity for God signifies human freedom for God which is the ultimate horizon of freedom and, therefore, also of human dignity. Capacity for God constitutes the religious dimension of human dignity because the document repeats again that “this dignity is rooted and perfected in God…[and] is called as a son to commune with God.”100

In a similar vein, elsewhere the document emphasizes that the humankind’s capacity for communion with God is the outstanding reason for human dignity. The text elaborates:

An outstanding cause of human dignity lies in man’s call to communion with God. From the very circumstance of his origin, man is already invited to converse with God. For man would not exist were he not created by God’s love and constantly preserved by it. And he cannot live fully according to truth unless he freely acknowledges that love and devotes himself to his Creator.101

Hence, the human capacity to know and love God, and to have communion with God as God’s children is the content or the essential meaning of creating human persons in God’s image. This capacity for God bestows on every person a value, which cannot be reduced to any other aspects of life in the temporal order but surpasses them all. Accordingly, later magisterial teaching qualifies this aspect

96 De Trinitate, XIV, 8, 11 (Quoted in Joseph Ratzinger, “The Church and Man’s calling, op.cit., p. 121). St. Augustine used the term “capax Dei” to indicate human person’s innate capacity to recognize the Triune God. He also applied this term to human person’s natural capacity to love God and human person’s “obediential capacity” for God. For St. Augustine, human person means “openness to God”. During his protracted theological exploration into the mystery of human existence, he seemed to have inspired by the Scriptural text, Colossians 3:10, to define the essential nature of human person as “capax Dei”.


98 Joseph Ratzinger, “The Church and Man’s Calling,” op.cit., p. 121.

99 We studied the classical tradition in chapter 4. For the contribution of St. Augustine and St. Thomas Aquinas see above section 2.4.3.2: “The Western Development of the Doctrine”, pp. 279-285.

100 GS, article 21, para 3.

101 Ibid., article 19, para 1. This article highlights the transcendent dignity of the human person. It epitomizes the essence of the Pastoral Constitution’s teaching on human dignity (see Donald R. Campion, “The Church Today”, in W.M. Abbot, The Documents of Vatican II, op.cit., p. 186). It is also the foundational article of the conciliar Declaration on Religious Freedom, Dignitatis Humanae (see Joseph Ratzinger, “The Church and man’s Calling”, op.cit., pp. 146-147).

Besides Dignitatis Humanae, the other documents of Vatican II maintain the same position on human dignity. See for example: The Dogmatic Constitution on the Church, Lumen Gentium, holds that all the faithful in the Church are equal in their dignity and to the activity common to all in building up the Body of Christ (LG, article 32). Declaration on the Relationship of the Church to Non-Christian Religions, Nostra Aetate, and Decree on the Church’s Missionary Activity, Ad Gentes, state that the human race has a common origin and shares in a common destiny as designed by God (NA, article 1; AG, article 3) because all are created in the image of God (NA, article 5; AG, article 7). Similarly, the conciliar Decree on the Instruments of Social Communication, Inter Mirifica, comments that in accordance with human dignity, the mass media communications system must uphold in its policy the norms of morality and legitimate rights of the people for information (BM, article 5). In a similar vein, the Declaration on Christian Education, Gravissimum Educationis, states that corresponding to human dignity and destiny, every one has an inalienable right to an education (GE, articles 1, 2, 3) and parents have the inalienable duty and right to educate their children. They should also enjoy the freedom in their choice of schools for their children (Ibid., article 6).
of the human dignity as transcendent dignity because it is rooted in God and perfected in the flourishing of human life in the blessed communion with God for which God is the guarantor. This vision of human dignity is all pervasive in the document of the Gaudium et Spes. It is the over-riding perspective and in the brightness of which the other aspects of human dignity have been explained.

Secondly, article 12 emphasises two essential consequences of creating human beings with capacity for God (capax Dei). The first of the two essential consequences is the dignity of work, which comprises the world of human activities in the temporal order. It is generally known as the human activities in the secular realm, which is distinct from the world of religious cult. It is for the reason that human persons have the capacity for communion with God, they are “appointed” to have dominion over the world. In other words, since human persons have capacity for interpersonal communion with God, God can entrust to them the work of God and they can own responsibility for the same in freedom.

In other words, human persons are partners in the work of God as they are called to be in communion with God. Consequently, they are called to involve themselves in the work of God and realise their divine destiny. In this manner they glorify God in all their work in the secular city. For this reason, work is an essential dimension of human vocation, consequent to human person’s capacity for God (capax Dei).

The second essential consequence of the human capacity for God is the dignity of social life. For the text underlines, “God did not create man as a solitary.” It is because human persons are endowed with capacity for interpersonal communion with God the absolute Thou, every person is an ‘I’ – that is, a subject, who can become a ‘Thou’ for another ‘I’. Therefore, the human capacity for God is the ground for the possibility and necessity for human partner in life. Capacity for God (capax Dei) is the reason that they are social by nature (socialitas), which is the foundational principle for building up human communities. It means that, by their very nature, human persons are relational subjects. The institutions of family and political community are the foremost among them as they relate with greater immediacy to people’s innermost relational nature. Therefore, these are the natural institutions as they are inherent in the nature of being human.

In what we have seen so far, it is obvious that the Pastoral Constitution Gaudium et Spes maintains a holistic perspective towards human dignity. It implies that human persons in all their activities and in all situations of life in the secular city are worthy of a dignity in what they are, which is transcendent in character. For as image of God, at all time and everywhere, they are endowed with freedom for fullness of life with God. At the same time, by drawing attention to the distinction between the essential content and the essential consequences of creating human beings in divine image, the Vatican II in Gaudium et Spes illustrates in a profound way the unity and distinction between the spiritual and the temporal, religious and secular dimensions of human activity.

Gaudium et Spes sees from an existential point of view the religious and secular dimensions of human activity in terms of ultimate and relative aspects of human life together with the values proper to each order. But they are not opposed to each other. The relative (the temporal order, etc) is seen in the context of the ultimate, which is capax Dei (human person’s freedom for communion with God). In this way, the conciliar vision of the human person excludes any sort of simple identification of the totality of human excellence with the world of work or with the world of

102 CA, nn.44, 46.
103 GS, article 12, para 4.
104 Ibid., articles 34, 35.
105 For a creative hermeneutic of Pope John Paul II on work as “an essential dimension of man’s vocation” see SRS, n.30; and his hermeneutic on work with specific reference to the book of Genesis and the contemporary world of industrial labour and technology, see LE, nn.4-6.
106 GS, article 12, para 5. God’s calling of human persons into existence (i.e., human vocation to exist) is always communitarian: see Otto Semmelroth, “The Community of Mankind”, op.cit., pp. 166-167.
109 GS, article 25, para 2.
socialization but sees them both in conjunction with the transcendent horizon of human existence. For as God’s image the person stands always and everywhere before God in freedom with capacity to respond to the divine vocation for fullness of life. Here one may notice the basis of religious freedom, which is human persons’ capacity to know and love God. It is the foundation of all other freedoms.

Christianity is concerned with human dignity, since it is part of Christian faith that every human person is created in God’s own image, and redeemed by Jesus Christ, the parable of God’s continuous saving love in the world. Every one is called for the flourishing of life eternally in the Trinitarian communion of God because God’s love is eternal. Hence, the Christian faith is concerned with the total welfare of humanity since the person in his / her totality deserves respect worthy of God’s image. From this anthropological perspective, as implied in the articles of the Pastoral Constitution, what is truly human proves to be religious, just as truly religious proves to be human.

Consequent to this conciliar anthropological perspective, Gaudium et Spes treats the world both as the theatre of human history and the realisation of God’s saving plan for the family of humankind. This has been succinctly expressed in the preamble of the document. It gives in a poetic style but forcefully describes, “[T]he pivotal point of our total presentation will be man himself, whole and entire, body and soul, heart and conscience, mind and will.” Thus, everything in the world is to be considered and approached from the point of view of human calling in life (vocatio) as image of God (imago Dei), which is at once transcendent, and by that very reason, supremely human in character.

The message of the conciliar document Gaudium et Spes is meant for all in so far as it holds that humankind is created to the imago Dei as well as it recognises the universal longing of all for a life worthy of human dignity. Hence, this document is addressed to the world community, to believers and non-believers alike. Its intention is to establish dialogue with people of various persuasions in all sectors of the civil society to further the cause of human life in the world in a manner appropriate to human dignity. What we have described above is the content of the preamble of the Pastoral Constitution Gaudium et Spes, which permeates throughout the entire document. We reproduce the full text of the preamble that reads:

[T]his Second Vatican Council, having probed more profoundly into the mystery of the Church, now addresses itself without hesitation, not only to the sons of the Church and to all who invoke the name of Christ, but to the whole humanity. For the Council yearns to explain to everyone how it conceives of the presence and activity of the Church in the world of today.

Therefore, the Council focuses its attention on the world of men, the whole human family along with the sum of those realities in the midst of which that family lives. It gazes upon

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115 Ibid., article 3, para 2.
116 Closely connected with the theological concept of “imago Dei” is the human calling in life “vocatio”. In Gaudium et Spes, the concept “vocatio” is also used in terms of integral vocation, calling, invitation, destiny, mandate, etc. See crf. GS, articles 3, 17, 18, 19, 22, 34, 57, 76. For a study on the theological connection between “imago Dei” and “vocatio” as used in Gaudium et Spes see A.O. Erbueh, op.cit., pp. 153-155.
117 Crf. GS, article 11. This article qualifies the “transcendent” character of the human calling as “religious” and claims, “the mission of the Church will show its religious, and by that very fact, its supremely human in character” (ibid, para 3).
118 Crf. Ibid., article 9.
that world which is the theatre of man's history, and carries
the marks of his energies, his tragedies, and his triumphs;
that world which the Christian sees as created and sustained
by its Maker's love, fallen indeed into the bondage of sin,
yet emancipated now by Christ. He was crucified and rose
again to break the stronghold of personified Evil, so that this
world might be fashioned anew according to God's design
and reach its fulfilment.119

Following the example of Christ who came to the world to
serve the family of humankind and not to be served,120 the preamble
highlights the kind of service the Church, through dialogue, wishes
to offer to the world, which raises anxious questions about current
trends emerging in the world community and searches for meaning
of human existence. The preamble further explains:

Though mankind today is struck with wonder at its own
discoveries and its power, it often raises anxious questions
about the current trends of the world, about the place and
role of man in the universe, about the meaning of his individual
and collective strivings, and about the ultimate destiny of
reality and of humanity. Hence, giving witness and voice to
the faith of the whole People of God gathered together by
Christ, this Council can provide no more eloquent proof of
its solidarity with the entire human family with which it is
bound up, as well as its respect and love for that family, than
by engaging with it in conversation [dialogue]121 about these
various problems.

The Council brings to mankind light kindled from the gospel,
and puts at its disposal those saving resources which the
Church herself, under the guidance of the Holy Spirit,
receives from her Founder. For the human person deserves
to be preserved; human society deserves to be renewed.
Hence the pivotal point of our total presentation will be man
himself, whole and entire, body and soul, heart and conscience, mind and will.

Therefore, this Synod proclaims the highest destiny of man
and champions the godlike seed which has been sown in
him. It offers to mankind the honest assistance of the Church
in fostering that brotherhood of all men which corresponds
to this destiny of theirs. Inspired by no earthly ambition, the
Church seeks but a solitary goal: to carry forward the work
of Christ Himself under the lead of the befriending Spirit.
And Christ entered this world to give witness to the truth, to
rescue and not to sit in judgment, to serve and not to be
served.122

Hence, the method of communication between the Church and
the world is one of sympathy, understanding, cooperation and
dialogue. The key to this dialogue with the world is the transcendent
dignity of very person created in the image of God and redeemed
by Christ. This is the central theme of the theological structure of
the Pastoral Constitution Gaudium et Spes, which is written in the
context of the contemporary world. We study it in detail in what
follows.

2.5.3.1. Conciliar Theological Anthropology Centred on
Human Dignity

The Second Vatican Council took place at a time when the
contemporary world has taken gigantic strides in the development
of human activity on various fields.123 The Pastoral Constitution
acknowledges with a sense of optimism these deep changes globally
affecting the material,124 social,125 psychological, moral and religious
spheres126 of life in the secular society. It also recognizes the
positive values of the contemporary world’s anthropological

119 Ibid., article 2.
120 Cf. Mk 10:45; Mt 20: 28; Jn 18: 37.
121 Flannery Austin in his edition of the Vatican document uses the term dialogue
while Walter M. Abbot maintains the term “conversation”. See Flannery Austin,
O.P., ed. Vatican Council II: The Conciliar and Post-Conciliar Documents
122 GS, article 3.
123 GS, articles 4, 5.
124 Ibid., article 4.
125 Ibid., article 6.
126 Ibid., article 7.
approach towards “all things on earth”, and supports its affirmative stance towards substantive values of human dignity, such as freedom, responsibility, equality and human solidarity, etc.

All the same, the same world is also known for confusion and despair about the essential meaning of human existence and calling in life. *Gaudium et Spes* portrays this world of human confusion and despair as contemporary anthropological crisis about the meaning of human existence. In this context, the Council believes that the mystery of Christ can shed light to solve this crisis by revealing the mystery of human existence, the values of human solidarity and human activities, and the meaning of human struggles and achievements in the world. The introductory statement of the document depicts this world scenario and the concluding article tersely describes:

The truth is that the imbalances under which the modern world labors are linked with that more basic imbalance rooted in the heart of man. For in man himself many elements wrestle with one another. Thus, on the one hand, as a creature he experiences his limitations in a multitude of ways. On the other, he feels himself to be boundless in his desires and summoned to a higher life…

In the face of the modern development of the world, an ever-increasing number of people are raising the most basic questions or recognizing them with a new sharpness: What is man? What is this sense of sorrow, of evil, of death, which continues to exist despite so much progress? What is the purpose of these victories, purchased at so high a cost? What can man offer to society, what can he expect from it? What follows this earthly life? The Church believes that Christ, who died and was raised up for all, can through His Spirit offer man the light and the strength to measure up to his supreme destiny.

Similarly, the first part of the Pastoral Constitution, which deals with the dignity of the human persons as image of God in their individual and social aspects as well as the dignity of their activities in the world, begins once again with the portrayal of the contemporary anthropological crisis and concisely depicts:

According to the almost unanimous opinion of believers and unbelievers alike, all things on earth should be related to man as their center and crown.

But what is man? About himself he has expressed, and continues to express, many divergent and even contradictory opinions. In these he often exalts himself as the absolute measure of all things or debases himself to the point of despair. The result is doubt and anxiety.

The Church understands these problems. Endowed with light from God, she can offer solutions to them so that man’s true situation can be portrayed and his defects explained, while at the same time his dignity and destiny are justly acknowledged.

Hence, anthropological crisis is the context and the common ground for the Church’s dialogue with the world. In the words of Walter Kasper, “Anthropology is the Archimedean point of the Pastoral Constitution, the basis for a dialogue with the world of today.”

In this existential context of the contemporary society, the Pastoral Constitution expounds on the general principles of theological anthropology grounded on the transcendent dignity of

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127 Cf. ibid., article 12, para 1.
128 Ibid., article 9.
129 Walter Kasper claims that the historical background of the contemporary anthropological crisis in the Western civilisation goes back to the dichotomous anthropology of Descartes. For detail see Walter Kasper, “The theological anthropology of Gaudium et Spes”, in *Communio*, 23 (Spring 1996), pp. 129-140.
130 Articles 4 to 10 form the “Introductory Statement” of the Pastoral Constitution *Gaudium et Spes*.
131 GS, article 10, paras 1, 6, 7.
132 Ibid., articles 11-45.
133 Ibid., article 12, paras 1, 2, 3.
the human person as God’s image and presents it to the world community, to Christians and others alike. Its purpose is to help people of all persuasions to gain deeper insight into the destiny of human life so that, as the document says, “they can fashion the world more to man’s surpassing dignity, search for a brotherhood which is universal and more deeply rooted, and meet the urgencies of our age with a gallant and unified effort born of love.” The document also provides with theological reasons for the Church’s engagement into dialogue with the world to find solutions to these human problems in the light of the Gospel and to work towards a world order worthy of human dignity.

In this broad anthropological perspective, the Pastoral Constitution Gaudium et Spes presents a general systematic structure of Christian anthropology centred on human dignity and takes it for granted the traditional doctrine about creation and human nature and re-asserts them only in passing. The real anthropological concern of Vatican II as outlined in the theological structure of the document is deeper. It deals with the Christian understanding of the human existence in the world. It focuses on the human calling in life and gives more emphasis to life in the secular world, which resonates with the transcendent dignity of the human person.

This theological concern in view, the systematic treatment of the Christian anthropology as structured in Gaudium et Spes is divided into two parts. The first part is titled as “The Church and Man’s Calling” and the second part as “Some Problems of Special Urgency.” These two parts constitute the main body of the Pastoral Constitution. The first part is chiefly doctrinal in character. It provides us with exposition on the doctrinal principles arising from theological anthropology centred on human dignity and finally explains its surpassing value in the light of the mystery of Christ. This is the matter for our study in this section.

The second part of the document contains many doctrinal points but primarily pastoral in tone. Most of its materials have been taken from the Johannine encyclicals, Mater et Magistra (1961) and Pacem in Terris (1963) which we have analysed in the previous chapter. Suffice for us to provide here a brief explanation to point out the centrality of human dignity as used in the pastoral structure of the second part. In this part the document deals with some important “subjects arousing universal concern” in the contemporary society, namely the institution of marriage and

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135 Ibid., article 91, para 1.
136 Ibid., articles 3, 10, 12.
138 Cf. GS, article 91.
139 See especially ibid., articles 12,19, 21.
140 For example the Scholastic concept of body-soul composition of the human person is referred to without going into detail in terms of classical theology (See GS article 14).
142 GS, articles 11-45.
143 Ibid., articles 46-90.
144 Besides the main parts of the Pastoral Constitution, articles 1 to 10 constitute the long Introduction, which consists of a preface (article 1), a preamble (articles 2-3) and an introductory statement (articles 4-10). The Preface stresses on the intimate bond of solidarity that exists between the Church and the world. The Preamble informs that the Constitution is addressed to all to tell the world community that the Church enters into dialogue with the world in the light of the Gospel in defence of human dignity. The Introductory statement describes in an astounding manner the contemporary world scenario in a language, which is personalist, existential and pastoral in tonality. In particular, it specifies the contemporary anthropological crisis and the Church’s reason for engaging in dialogue with the world. Articles 91 to 93 contain the general conclusion. It recapitulates certain basic themes of the document. It states that the Constitution presents general teaching already accepted in the Church, i.e., referring to the previous Social Encyclicals (art.91). It informs that the Church stands forth “as a sign of that brotherhood which allows honest dialogue and gives it vigor” (art.92); and states that the Church esteems harmony through full recognition of lawful diversity in the world (ibid) and wishes that by its service to the world “will share with others the mystery of the heavenly Father’s love”(art.93).
146 GS, article 46, para 2.
While dealing with the institution of marriage and family, the document stresses that the dignity of the human person as God’s image is the foundation for the natural dignity and nobility of marriage and family life. In addition, it calls to attention the dignity of Christian marriage as a reflection of “the loving covenant uniting Christ with the Church.” Similarly, the document comments on the nobility of culture on account of human dignity because culture flows from the spiritual and social nature of human person to humanise the world. Consequently, the Church supports the just liberty and autonomy of culture.

The dignity of the human person is the leitmotif of what the Pastoral Constitution Gaudium et Spes says concerning socio-economic order. It states, “[M]an is the source, the center, and the purpose of all economic and social life.” Therefore, the human labour itself must always be seen in its true dignity. Similarly, human dignity is the criterion for the support of democratic form of political community since Vatican II considers that constitutional government safeguards better the substantive values of human dignity and the rights that proceed from it. Finally in its advocacy for world peace, the document declares that a firm determination to respect people in their dignity and affirmation of human solidarity (brotherhood) are absolutely necessary for the promotion of world peace.

2.5.3.2. Human Dignity in the Doctrinal Structure of Gaudium et Spes

The first part of the Pastoral Constitution presents an expansive doctrinal exposition on the defining theological principles of human dignity. This part consists of four chapters. They are thematically sub-titled as “The Dignity of the Human Person”; “The Community of Mankind”; “Man’s Activity throughout the World”; and “The Role of the Church in the Modern World”. From the methodological point of view, these four chapters are grouped into two sections. Chapters 1 to 3 form the first section and chapter 4 makes up the second section of the first part of the Pastoral Constitution Gaudium et Spes.

The first three chapters explain human dignity by relating it with human existence in the world under three aspects. This is based on the classification of the essential content and the essential consequences of creating human persons in God’s image. Hence, the first chapter deals more categorically with the dignity of the human person in one’s individual aspect and in one’s relationship to God. The second chapter treats the dignity of the human person in

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147 Ibid., articles 47-52.
148 Ibid., articles 53-62.
149 Ibid., articles 63-72.
150 Ibid., article 73-76.
151 Ibid., articles 77-90.
153 Ibid., article 48, para 8.
156 Ibid., article 63, para 1.
157 Ibid., article 69. It is this conciliar principle of the dignity of labour that has been later philosophically and theologically elaborated by Pope John Paul II in his first social Encyclical Letter Laborem Exercens (1981). We have studied it in chapter eight. See supra section 3.8.3.4.6.
158 Ibid., article 78, para 3.
159 GS, articles 73. The principles of political community as expounded in the articles 73 to 76 of Gaudium et Spes are based on John XXIII’s Encyclical Letter Pacem in Terris (1963). On human rights and the relation between the individuals and the state, the Pastoral Constitution follows the principles given in Pacem in Terris, nn.8-79.
159 GS, articles 12-22.
160 Ibid., articles 23-32.
161 Ibid., articles 33-39.
162 Ibid., articles 40-45.
164 See above section 2.5.3: “The Theology of Human Dignity in Gaudium et Spes”, pp. 334-344.
one’s social aspect, that is, the human person as a relational self. The third chapter relates human dignity with human activity in the world in which one is called upon to participate in the work of God and develop one’s personality. It explains the dignity of human activity in the world.

It is in this total perspective of the dignity of human existence in the world, which consists in a complex network of human relationships and activities, the fourth chapter presents the role of the Church in terms of dialogue with the world in defence of human dignity as well as its pastoral responsibility to commit for the cause of human dignity in the civil society. This ecclesial intention has been declared in the beginning of the fourth chapter. It states that everything that has been said about human dignity, and about human community and the profound meaning of human activity, lays the foundation for the relationship between the Church and the world, and presents the basis for dialogue between them. After studying the theological structure of Gaudium et Spes in the comprehensive perspective of the theology of human dignity, we are now in a position to collate the basic doctrinal principles of human dignity. These are also the constitutive principles of the theological anthropology of Gaudium et Spes.

2.5.3.3. The Doctrinal Principles of Human Dignity

We highlight in this section the doctrinal principles of human dignity, which are intrinsic to Christian vision of human person. First of all, Gaudium et Spes stresses that the creation of human persons “to the image of God” is the foundation of human dignity. As image of God, human persons are capable of knowing and loving God. For this reason, the Pastoral Constitution Gaudium et Spes exalts the dignity of human intellect with which persons surpass the material universe and share “with the light of divine mind.”

The document, moreover, extols the dignity and primacy of the moral conscience as well as the dignity and excellence of liberty. However, the Constitution does not overlook the reality of sin and the consequent possibility of misusing freedom, a self-evident fact in daily life.

Commenting on the sacredness of conscience, the document asserts that we know the imperatives of the divine law through the mediation of conscience. Therefore, it claims that human dignity demands obedience to one’s conscience, and says:

In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience. Always summoning him to love good and avoid evil…

Conscience is the most secret core and sanctuary of a man. There he is alone with God, whose voice echoes in his depths…In fidelity to conscience, Christians are joined with the rest of men in the search for truth...

Correspondingly, the Gaudium et Spes is categorical in its affirmation of the centrality of freedom that is inalienable to the dignity of human persons created in God’s image, and declares:

[A]uthentic freedom is an exceptional sign of the divine image within man. For God has willed that man be left “in the hands of his own counsel” [cf. Eccl. (Sir) 15:14] so that he can seek his Creator spontaneously…Hence man’s dignity demands that he acts according to a knowing and free choice.

Insistence upon the indispensable value of freedom led Vatican II to make a special declaration on religious freedom as the right of the person and communities to immunity from coercion in matters...
religious in the civil society.\textsuperscript{177} It is also important to note that the Constitution upholds in an excellent manner the dignity of human body and forbids despising it,\textsuperscript{178} since God has created it and will raise it up on the last day. It explains that “the very dignity of man postulates that man glorify God in his body.”\textsuperscript{179} The document describes the mystery of death with a deep sense of hope and sobriety in the light of the paschal mystery of Christ.\textsuperscript{180}

The second doctrinal principle is the dignity of the human persons in their social nature, which is grounded in and flows from the human capacity for interpersonal communion with God (\textit{capax Dei}). \textit{Gaudium et Spes} declares, “by his innermost nature man is a social being, and unless he relates himself to others he can neither live nor develop his potential.”\textsuperscript{181} Consequently, emphasis is laid on the interdependent nature of the person and the need for society. Human persons develop their unique personalities through societal relationship and fulfil their calling in life in the context of society. God ordains it on account of their creation in God’s image. Therefore, the document claims:

Man’s social nature makes it evident that the progress of the human person and the advance of society itself hinge on each other…Hence, through his dealings with others, through reciprocal duties, and through fraternal dialogue he develops all his gifts and is able to rise to his destiny.\textsuperscript{182}

The transcendent dignity of the human persons and their social nature require promoting the values of human solidarity (fraternity), equality and respect for all people.\textsuperscript{183} Commenting on the need for human solidarity (fraternity), \textit{Gaudium et Spes} states:

God, who has fatherly concern for everyone, has willed that all men should constitute one family and treat one another in a spirit of brotherhood. For having been created in the image of God…all men are called to one and the same goal, namely, God Himself.

For this reason, love for God and neighbour is the first and greatest commandment…\textsuperscript{184}

Likewise, \textit{Gaudium et Spes} reiterates that the doctrine of \textit{imago Dei} is the theological foundation for egalitarian social order and for eradicating discrimination of the people in any form in the society. It explains:

Since all men possess a rational soul and are created in God’s likeness, since they have the same nature and origin, have been redeemed by Christ, and enjoy the same divine calling and destiny, the basic equality of all must receive increasingly greater recognition…[E]very type of discrimination, whether social or cultural, whether based on sex, race, color, social condition, language, or religion, is to be overcome and eradicated as contrary to God’s intent.\textsuperscript{185}

The dignity of human persons in their social nature and the values flowing from it are also indicative of the need to protect and promote common good\textsuperscript{186} which allows communities and their members to attain their legitimate aspirations to lead a life worthy of human dignity.

The third doctrinal principle is the dignity of work. The Pastoral Constitution \textit{Gaudium et Spes} describes the value of human activity by seeing it from the perspectives of protology,\textsuperscript{187} soteriology\textsuperscript{188} and eschatology.\textsuperscript{189} The conciliar document emphasises that endowed with capacity for God and redeemed by Christ, human activity is participation in the divine creative will in developing the

\textsuperscript{177} Crf. DH, article 2. This is the subject of our study in section 2.5.6, “Transcendent Dignity and Religious Freedom”, pp. 367-370, ff.
\textsuperscript{178} GS, article 14.
\textsuperscript{179} Ibid., para 2.
\textsuperscript{180} Ibid., article 18.
\textsuperscript{181} Ibid., article 12, para 5.
\textsuperscript{182} Ibid., article 25, para 1.
\textsuperscript{183} Ibid., article 28.
\textsuperscript{184} Ibid., article 24, paras 1, 2.
\textsuperscript{185} Ibid., article 29, paras 1, 2.
\textsuperscript{186} Ibid., article 26.
\textsuperscript{187} Ibid., article 34.
\textsuperscript{188} Ibid., article 38.
\textsuperscript{189} Ibid., article 39.
world throughout history for the advancement of the family of humankind and thereby preparing the final state of the world, which Christ will bring about on His return. For this reason, the Christian faith sees that "the triumphs of the human race are a sign of God’s greatness and the flowering of His own mysterious design." Therefore, faith does not deter Christians from building up the secular city, but "they are, rather, more stringently bound to do these very things." In this context, the Pastoral Constitution acknowledges the rightful autonomy of the secular realities and holds that matters of reason need not be in conflict with concerns of faith because both “derive from the same God.”

2.5.4. Human Dignity in the Christological Horizon

The theological understanding of the human person as expounded in the first part of the Pastoral Constitution Gaudium et Spes, which constitutes its doctrinal part, is the most extensive presentation on a specific theme in the Council’s documents. The document claims that this anthropological narrative grounded on human dignity, finds meaning only in the light of Christ. The definitive text in Gaudium et Spes asserts, “The truth is that only in the mystery of the incarnate Word does the mystery of man takes on light.” Commenting on this text, Walter Kasper says, “This sentence is, as it were, the standard and the short formula of the Gaudium et Spes. It entitles us to call the anthropology of the Second Vatican Council not only as a Christian, but also a christological anthropology.”

The Pontiff’s observation is particularly true in the case of Gaudium et Spes in which the occurrence of the christological texts is rather frequent than in other documents. Its clearest expression is found in article 22 of the Pastoral Constitution that...
interprets the mystery of the human person in the light of the mystery of Christ, the incarnate image of the invisible God. It is the subject of our study in the following sections.

2.5.4.1. The Transcendent Dignity of the Human Person

The theological anthropology of *Gaudium et Spes* indicates that the mystery of Christ highlights the transcendent character of human dignity. It is explained in article 22 of *Gaudium et Spes*. Our study begins with the first paragraph of the said article, which describes about the light shed by Christ on the mystery of humankind. The text declares:

The truth is that only in the mystery of the incarnate Word does the mystery of man take on light. For Adam, the first man, was a figure of Him who was to come, namely, Christ the Lord. Christ, the final Adam, by the revelation of the mystery of the Father and His love, fully reveals man to man himself and makes his supreme calling clear. It is not surprising, then, that in Him all the aforementioned truths find their root and attain their crown.

We start with the last sentence of this paragraph that holds the key to the text. It says that all the known facts about humankind as narrated in the first chapter, namely the dignity of creating the human person in God’s image, the dignity of human body, intellect, conscience, liberty, tragic reality of sin and the mystery of death, etc., “find their root and attain their crown”\(^{200}\) in the mystery of Christ, the incarnate image of the invisible God (Col. 1:15).\(^{201}\) Hence, the mystery of the incarnation reveals what human persons are and to what purpose they are created in God’s image.

The text also mentions Adam-Christ typology of the Pauline theology\(^{202}\) and refers to its christological hermeneutics as found in the great patristic tradition, especially in the writings of Tertullian\(^{203}\) and Irenaeus.\(^{204}\) They commented that the first Adam fashioned by God from the slime of the earth, already imaged the incarnation of Christ as the perfecting image of God in humankind. The christological relevance of the test for our study is that Adam created in the image of God, which is to be construed as humankind in the generic sense created in God’s image, does not explain Christ. But Christ, the divine image incarnate, enlightens every one what it means to create human persons in the image of God. Hence, in *Gaudium et Spes* the systematic link between anthropology and christology is the concept of the “image of God.”\(^{205}\)

The application of the concept of image of God in relation to christology and anthropology requires our explanation. What is involved here is the theological methodology used in the document of the Pastoral Constitution *Gaudium et Spes*, which is addressed to all, Christians and non-Christians alike.\(^{206}\) To meet this requirement, the fathers of Vatican II used an inductive anthropological method, which advances from facts better known and generally acknowledged by all to less known and less talked about anthropological insights.\(^{207}\) As a result, christological insights are generally given as the concluding faith reflection on anthropology. This pattern is repeated at the end of each chapter in the first part of *Gaudium et Spes*. It means that anthropology is the starting point, and christology is the horizon and criterion of all reflections on human dignity, and the connecting link between the two is the concept of the *imago Dei*.

This becomes evident from the theological structure of the first chapter of the first part of *Gaudium et Spes*, which deals specifically with human dignity.\(^{208}\) In this chapter, there is a direct theological link between article 12, which is the first article, and

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\(^{200}\) GS, article 22, para 1.

\(^{201}\) Ibid., para 2.

\(^{202}\) Rom 5:14.


\(^{204}\) Cf. Luis Ladaria, *op.cit.*, pp.390,400).


\(^{206}\) Cf. GS, article 2.


\(^{208}\) GS, articles 12 to 22.
article 22, which concludes the narrative on human dignity in that chapter. In article 12 the anthropological narrative of human dignity begins with the image of God theology of the Old Testament. This narrative culminates with article 22 that presents Christ as the New Man, which is substantiated by the image christology of the New Testament with the affirmation that Jesus Christ is the incarnate image of the invisible God.\(^{209}\) Hence, image of God concept is the systematic theological connection with which the fathers of the Council explained the essential nature of humankind, their social constitution and their creative organisation of the world in relation to the mystery of Christ. Therefore, the significance of human person’s openness to God (\textit{capax Dei}), human relationality - that is, the social nature of the human person - and human activity are viewed in the light of the mystery of Christ.

One may wonder why christology should be the horizon for anthropology. The reason is that as image of God, human persons find their ultimate and definitive fulfilment of their vocation in life only in that intimate communion with God, which has occurred in an unique and unsurpassable way in Jesus Christ, the incarnate image of the invisible God, who is truly God and truly human.\(^{210}\) Hence, by revealing God’s love for humankind and thus revealing himself as Son sent by the Father, Jesus Christ reveals through his life, death and resurrection God’s gracious intention of creating humankind in God’s image for communion with God (\textit{capax Dei}).

This means that from the beginning of creation, human persons are called to be in communion with God, to be God’s children in the Son. The dignity of the human person is seen in the christological horizon not only because Christ identified himself with the family of humankind through the mystery of his redemptive incarnation but also as the eternal Word of God the Father, in him everything is created.\(^{211}\) This is the reason for the christological interpretation of the transcendent character of human dignity. It is because the divine intention of creating humankind in God’s’s image does not exhaust with life temporal but for the flourishing of life in the glory of the Risen Christ\(^{212}\) who is presented in \textit{Gaudium et Spes} as “the goal of the human history, the focal point of the longings of history and of civilization, the center of the human race, the joy of every heart, and the answer to all its yearnings.”\(^{213}\)

2.5.4.2. The Mystery of Incarnation Exalts Human Dignity

The second paragraph of article 22 begins with the image christology of the New Testament. It presents Christ as the eschatological Adam, and stresses on the exalted character of human dignity because of Christ’s solidarity with every human person. Consequently, the article describes that by the mystery of incarnation the nature of humankind has been raised to a divine dignity. The text reads:

\(^{212}\) Luis Ladaria, \textit{op.cit.}, p. 391.

\(^{213}\) GS, article 45, para 2. This text needs our attention because next to article 22 of \textit{Gaudium et Spes}, it is the second richest christological text in the entire documents of Vatican II (cf. Jacques Dupuis, \textit{op.cit.}, p. 144). It is given as the concluding article of the doctrinal part of \textit{Gaudium et Spes} which follows an inductive anthropological method leading to christological anthropology. We reproduce the full text: “For God’s Word, by whom all things were made, was Himself made flesh so that as perfect man He might save all men and sum up all things in Himself. The Lord is the goal of human history, the focal point of the longings of history and of civilization, the center of the human race, the joy of every heart, and the answer to all its yearnings. He it is whom the Father raised from the dead, lifted on high, and stationed at His right hand, making Him Judge of the living and the dead. Enlivened and united in His Spirit, we journey towards the consummation of human history, one which fully accords with the counsel of God’s love: ‘To re-establish all things in Christ, both those in heavens and those on the earth’ (Eph. 1:10).” This text projects a holistic approach towards nature and grace, creation and redemption, secular history and salvation history. Dichotomy between natural and supernatural orders has been ironed out while distinction is maintained. Christ is sent into the midst of human history as a new ontological principle, by which the creation achieves its ultimate meaning and so attains fulfilment. The whole function (\textit{munus}) of the Church as the “universal sacrament of salvation of Christ” (cf. LG, articles 1, 8, 15, and 17) is nothing but to serve this saving plan of God. The text also suggests that evangelisation is a comprehensive ecclesial service to the world. It is more than proclamation (cf. Yves Congar, \textit{op.cit.}, pp. 221-222).
He who is “the image of the invisible God” (Col. 1:15), is Himself the perfect man. To the sons of Adam He restores the divine likeness which has been disfigured from the first sin onwards. Since human nature as He assumed it was not annulled, by that very fact it has been raised up to a divine dignity in our respect too. For by His incarnation the Son of God has united Himself in some fashion with every man. He worked with human hands, He thought with a human mind, acted by human choice, and loved with a human heart. Born of the Virgin Mary, He has truly been made one of us, like us in all things except sin.214

In this text, the document accentuates the theology of “assumptio hominis” in full depth and intensity.215 Precisely, as the incarnate image of the invisible God, Christ reveals God in an excellent way through his perfect humanity.216 Consequently, Christ reveals in his humanity the true nature of humankind created in God’s image. Just as the human nature that Christ assumed was not absorbed by his divinity,217 likewise our human nature, by coming into contact with Christ, does not disappear nor become diminished. On the contrary, it is exalted to its supreme dignity. Moreover, recalling the great patristic tradition,218 Gaudium et Spes tells in an emphatic language that by the mystery of incarnation, Christ has joined himself with every human person.

In its attempt to show how Christ united himself with every one, the document does not resort to essentialist language of the ontological christology like that of the Council of Chalcedon219 but uses existential and practical language. Therefore, the text describes, “He [Christ] worked with his human hands, He thought with a human mind, acted by human choice, and loved with a human heart.”220 It means that Jesus’ human actions have become the instrument of the divine Logos and remained open to divine action, since by the mystery of the incarnation, all human actions of Jesus are the human actions of the Son of God.221 Christology, therefore, posits that human persons are free subjects. They are endowed with capacity to hear and respond to the Word of God and to organise their lives responsibly in the world.222 The mystery of incarnation affirms the anthropological truth that the human person in his or her totality, that is, in his or her thinking, willing, loving and acting in the world is openness to God (capax dei). This suggests that freedom and responsibility are integral to the fact of being human.

2.5.4.3. Human Dignity and Christ’s Universal Redemption

Christology leads us to see the meaning of human dignity in the light of Christ’s redemptive incarnation. Therefore, paragraphs 3 to 6 of the article 22 of Gaudium et Spes explain the soteriological significance of Christ’s death for all. We begin our study with the third paragraph, which is focused on Christ’s vicarious death for our sins and the new life that he merited for us. The text reads:

As an innocent lamb He merited life for us by the free shedding of His blood. In Him God reconciled us to Himself and among ourselves. From bondage to the devil and sin, He delivered us, so that each one of us can say with the Apostle: The Son of God “loved me and gave himself up for me”...

214 GS, article 22, para 2.
217 The Christological definition on the Two Wills and Actions of Christ promulgated by the Council of Constantinople III (681), cf. ibid., pp. 184-185, nn.635-637.
220 GS, article 22, para 2.
221 Commenting on the human personality of Christ, Walter Kasper in his systematic christological reflection writes: “The assumption of Jesus’ humanity, the act of highest possible union, at the same time posits this in its own creaturely reality. Jesus’ humanity is therefore hypostatically united with the Logos in a human way, and this means in a way that includes human freedom and human self-consciousness. Precisely because Jesus is no other than the Logos, in the Logos and through him, he is also a human person. Conversely, the person of the Logos is the human person.” Walter Kasper, Jesus the Christ (London, Burns and Oates, 1976), p. 248.
By suffering for us He not only provided us with an example for our imitation. He blazed a trail, and if we follow it, life and death are made holy and take on a new meaning.223

Christ’s solidarity with every person, which is mentioned in the previous paragraph, reaches its finale in his death and glorious resurrection. It is precisely because not only life but also “the riddles of sorrow and death”224 attain new meaning in him, who as the incarnate image of the invisible God reveals, “the supreme calling”225 of every one created in God’s image. This is to live a life of communion with God and with all people in terms of human solidarity in the society.

However, the emphasis in this paragraph is not on Christ’s solidarity with us in death as such, but on his vicarious death, since the text describes, “As an innocent lamb He merited life for us by the free shedding of His blood.”226 This has got particular interest for our study of the universal significance of human dignity in the light of Christ’s universal redemption. From the christological point of view, it means that through the ignominious death of Jesus Christ, God shares with the sin-ridden world two truths: (1) that God remains ever faithful to the supreme calling of human persons for communion with God, which is the divine bestowal, by creating them in God’s image; and (2) that God shares with the world God’s infinite readiness to suffer, that is, to empty God’s self in self-giving227 for restoring humankind’s communion with God and humankind among themselves. It is because by sin human persons have disfigured their relationship to God and among themselves as the text affirms, “In Him [Jesus Christ] God reconciled us to Himself and among ourselves.”228

Hence, God’s faithfulness to the transcendent calling of human persons as intended by God from the beginning of creation is the heart of human dignity. Christologically speaking, the dignity of every person is to be seen in the value of the precious blood of the Son of God shed on the cross for the redemption of every one.229 Hence, the university of Christ’s redemption affirms the university of human dignity and equality of all people before God and among themselves.

God’s faithfulness to the humankind’s calling in life is salvation whose content, from the christological point of view, is the paschal mystery, which is the summary of Christ’s total solidarity with the entire family of humankind. This has been presented concisely in the sixth paragraph of article 22 of Gaudium et Spes, which says:

All this holds true not only to Christians, but for all men of good will in whose hearts grace works in an unseen way. For, since Christ died for all men, and since the ultimate vocation of man is in fact one, and divine, we ought to believe that the Holy Spirit in a manner known only to God offers to every man the possibility of being associated with this paschal mystery.230

In this paragraph we have the categorical affirmation of Vatican II on the universal possibility of salvation.231 Hence, all are called to unite themselves with Christ and all given the possibility of being associated with the paschal mystery through the working of the Holy Spirit. The mention of the pneumatological dimension of the universality of salvation in Jesus Christ is appropriate, because it is the Holy Spirit who associates men and women everywhere, even beyond the ecclesial community with the paschal mystery in a way known to God who wills all people be saved and come to the knowledge of the truth232 about their vocation in life.

Thus Christ, the dead and the Risen Lord of the universe, sheds light on the mystery of sorrow and death as well as on the vocation of human persons. He lavishes upon all people life “so that as sons [children] in the Son, we can cry out in the Spirit: Abba, Father!”233

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223 GS, article 22, para 3.
224 GS, article 22, para 7.
225 Ibid., para 1.
226 Ibid., para 3.
227 Cf. Phil 2: 5-8
228 Ibid., para 3; cf. 2 Cor 5: 18-19; Col 1: 20-22.
231 Cf. 1 Tim 2: 4.
Humanity reaches the goal of its calling in life when the entire family of humankind flourishes in the divine life of the Trinitarian communion of God. Therefore, the universality of the paschal mystery affirms not only the university of human dignity and equality of all but also the nobility of human solidarity and interpersonal communion as constitutive of the essential nature of humankind created in God’s image. It is for the reason that God who is imaged in all people is given in the biblical revelation as the Trinitarian Communion of Persons. Hence, human solidarity in societal life, which is inalienable to human nature, is seen as a sign of divine communion of the Trinitarian God.

At the same time, human solidarity involves a sense of inalienable duty claiming on every one to promote common good, which can only be maintained through the responsible use of freedom. This entails a sense of self-giving and self-sacrifice for the welfare of all. These values inherent in the nature of human relationality find their soteriological significance in the paschal mystery. Therefore, these human actions are redemptive in character, though secular in application because all good actions are of the working of the Holy Spirit who, in a way known to God, associates all with the paschal mystery. Article 22 of the Pastoral Constitution Gaudium et Spes concludes with a profound sense of wonder at mystery of the human person and exclaims, “Such is the mystery of man, and it is a great one, as seen by believers in the light of Christian revelation...Apart from His gospel, they overwhelm us.”

2.5.5. Christian faith safeguards Transcendent Dignity

We sum up our study of human dignity seen in the christological horizon with the following observations. Human dignity attains an exalted meaning, when the person’s origin and destiny is seen in the light of Jesus Christ, the incarnate image of the invisible God. This has got value significance in the political order for the protection of human dignity. First of all, from christological point of view, human dignity attains an exalted value. Every person is an image of God and Christ redeems every person. The universal vocation of humankind is to share in the divine communion of the Blessed Trinity. Secondly, the universality of the redeeming act of Christ claims the university of human dignity and equality of all people as well as human relationality as children of God, because all are graced to live in the relationship of divine paternity and human solidarity (fraternity). This calls for to strengthen the values of human solidarity in the societal life, which is an essential human aspect arising from human person’s capacity for God (capax Dei).

Thirdly, human dignity seen in the christological perspective presents that human persons are capable of hearing the word of God and responding to it in freedom. Adherence to the Christian Law would be love.

This solidarity must be constantly increased until that day on which it will be brought to perfection. Then saved by grace, men will offer flawless glory to God as a family beloved to God and of Christ their Brother” (GS, article 32, paras 1, 2, 3, 5). For a commentary on the soteriological meaning of this article, see Luis Ladaria, op.cit., pp. 393-397; Otto Semmelroth, op.cit., pp. 180-181; Alfons Auer, op.cit., pp.194-195.

See above section 2.5.3: “The Theology of Human Dignity in Gaudium et Spes”, pp. 334-344.
religion requires faith, which is a free acceptance of God’s Word, which implies the sense of religious freedom. Consequently, the excellence of human freedom consists in the fact that it is capable of involving God in shaping the destiny of human history. This disproportion between the limitation of a contingent creature and the eternal consequence of the creature’s action would be unintelligible without the divine grace, which Jesus Christ reveals, as God’s parental faithfulness who loves all people from the foundation of the world for what they are without any other motive or reason. Hence, God’s faithfulness to the calling of human persons for the flourishing of life in the divine communion is the heart of human dignity.

Fourthly, the christological affirmation of human dignity is at once an affirmation of the anthropological truth that freedom is constitutive of the fact of being human. Christian faith values freedom as a divine endowment for creating human persons in the divine image. It consists in the transcendent vocation of human persons that is grounded in their capacity for God. It means that human excellence is not limited to life temporal as implied in religious freedom. Hence, the Christian faith proves to be a significant safeguard for the dignity of the human persons in their exercise of religious freedom in the secular society. This is the content of Vatican II’s Declaration on Religious Freedom, Dignitatis Humanae. This document expounds on the application of freedom, especially religious freedom in the political community, in so far as this freedom is grounded in the dignity of the human person, which the Christian faith sees in the light of theology of creation and redemption in Christ. This is the subject matter of our investigation in the proceeding section.

2.5.6. Transcendent Dignity and Religious Freedom

The Second Vatican Council is known for historical method in its theological approach to secular realities. The Council sees the facts of history in the light of the Gospel and discerns in them the working of the Holy Spirit who fills the earth. In this regard, the Council identifies two significant facts of the contemporary times that have brought revolutionary changes both in the society and political order. The first is the growing consciousness of the people about their dignity as free and responsible persons, which is of historic importance for free inquiry in search of truth in acquiring knowledge and for the progress of civilization. The second is the qualitative increase in people’s awareness of political freedom. It is known through people’s contemporary aspiration to live in a free society under a political order with limited power that does not intrude into their legitimate pursuit of truth and virtue, especially in the exercise of religious freedom.

Taking note of these two significant historical events, Vatican II comments:

This Vatican Synod takes careful note of these desires in the minds of men. It proposes to declare them to be greatly in accord with truth and justice...

Over and above all this, in taking up the matter of religious freedom this sacred Synod intends to develop the doctrine of recent Popes on the inviolable rights of the human person and on the constitutional order of society.

It is of historic importance to note that the text explicitly declares the Council’s intention to “develop” a Catholic doctrine of religious freedom as a fundamental right and a political doctrine of constitutional state, which deals with the function, and limits of the State in a free society. Both doctrines are based on human dignity and in defence of it.

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240 DV, articles 2, 3, 4, 5.
241 Cf. Eph 1: 3-14.
242 Cf. GS, article 24.
243 DH, article 2 and para 1 of article 4; CA, n.25.
244 GS, article 19; DH, article 2.
245 GS article 4 para 1; article 11 para 1. Vatican II calls these facts of history as “signs of the times”. Pope John XXIII coined this phrase. The Pontiff frequently used it in his Encyclical Letter Pacem in Terris (PT, n. 126 f). For a theological critique of the phrase “signs of the times” see Joseph Ratzinger, op. cit., pp.115-116.
246 DH, article 1, paras 1, 2; Cf. GS, article 5.
247 Ibid., paras 3 and 6.
It is noteworthy to observe, at this point of our study, what the commentators of the documents of Vatican II point out about these doctrinal developments. For instance, scholars like John Courtney Murray and Pietro Pavan remind us that the document *Dignitatis Humanae* was the most controversial document of the whole Council. This was concerned with the question whether the conciliar doctrines of religious freedom and constitutional State contradicted the teaching of the recent Popes of the pre-Vatican II period. Most of the Council fathers did not regard that the Popes in the past defined these doctrines in their final form once and for all. They saw them as gradually developing doctrines through new papal contributions on the understanding of human dignity, freedom and rights in response to contemporary growth in human knowledge.

In this historical perspective, Second Vatican Council’s Declaration on Religious Freedom, *Dignitatis Humanae*, marks a watershed in the history of the doctrinal development in the Catholic Church. By this conciliar declaration, the Catholic Church accepts as part of its teaching that religious freedom is a fundamental right equally enjoyed by all in the civil society and endorses the principle of a free society under a State with limited powers. This document clearly aligns Catholic theology squarely on the side of democratic polity.

Hence, our task now is to investigate the theological insights found available in the conciliar document *Dignitatis Humanae* that support religious freedom as a fundamental right and provide reasons for the establishment of the constitutional order of political society. These theological insights are fundamentally based on the theology of human dignity as developed in *Gaudium et Spes* and their applications for the political society are expounded in the document *Dignitatis Humanae*.

### 2.5.6.1. Religious Freedom as Immunity from Coercion

Our investigation begins with article 2 of *Dignitatis Humanae*. The first paragraph of article 2 contains the doctrinal substance of religious freedom defined by Vatican II. One of the commentators of this document, Pietro Pavan, suggests that the first two paragraphs of this article form the first part of the article, which is the most important part of the entire document. The relevant provisions of the article read:

> This Vatican Synod declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that in matters religious no one is to be forced to act in a manner contrary to his own beliefs. Nor is anyone to be restrained from acting in accordance with his own belief, whether...

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249 Until the nineteenth century, the Catholic Church strongly opposed all forms of liberalism and regarded democracy as political liberalism. It is because the philosophy of liberalism advocated the human individual and human reason supreme giving no space for God and divine law in the political community. In terms of papal documents, it was only in the middle of the Second World War, in his Christmas message in 1944, that Pope Pius XII recognized democratic form of government as compatible with reason. This statement set the ball rolling towards further development in Catholic social teaching in support of democracy. Pope John XXIII’s Encyclical Letter *Pacem in Terris* (1963) brought out a full blown papal document on human rights based on the principle of human dignity, advocated democratic form of government and separation of the three functions of public authority (legislature, executive and judiciary) but left it open to the people to decide the form of governance they need (PT, n.142). However, the juridical status of religious freedom in the political society remained rather unclear in *Pacem in Terris*. Nevertheless, these papal contributions have been the immediate prelude to the conciliar document *Dignitatis Humanae* in which the Catholic Church for the first time spells out in clear language the inalienable right of religious freedom and the limitations of the State in matters religious. For detailed study see Charles E. Curran, *op.cit.*, pp.146-158; Paul E. Sigmund, “Catholicism and Liberal Democracy” in *Catholic Social Teaching and the New World Order*, op. cit., pp. 51-71; George Weigel, “Catholicism and Democracy: The Other Twentieth Century Revolution”, in Gordon L. Anderson and Morton A. Kaplan, eds., *Morality and Religion in Liberal Democratic Societies*, eds. (New York, Paragon, 1992), pp. 223-250.

250 Pietro Pavan, *op.cit.*, p. 64.

251 DH, articles 2, 4.

252 Pietro Pavan, *op.cit.*, p. 64.
privately or publicly, whether alone or in association with others, within due limits.\textsuperscript{253}

The Synod further declares that the right to religious freedom has its foundation in the very dignity of the human person, as this dignity is known through the revealed Word of God and by reason itself. This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil law.\textsuperscript{254}

Some salient features of the above passage are the following: Every individual has a right to religious freedom because he / she is a person. The content of this right is freedom from coercion on the part of individuals or of social groups or any human power. Freedom from force in matters religious has a twofold meaning. First, no is to be forced to act in a manner contrary to his / her beliefs; second, no is to be forcefully restrained from acting in accordance with his / her beliefs, whether privately or publicly, whether alone or in association with others.

The concept “beliefs” is used in a generic sense including convictions or persuasions. Hence, the unbeliever or atheist is also entitled to this right to immunity from coercion in matters religious. This right is grounded in the inalienable dignity of the human person as moral subject, which is known in the light of revelation and by reason. Therefore, it is to be regarded as “a fundamental right of the person or as a natural right, that is, one grounded in the very nature of man.”\textsuperscript{255} This right is to be recognised as a civil right in the constitutional law of the political society, that is, the State.

This is in agreement with the nature of the modern constitutional States. Under the constitutional form of government people, as free and responsible citizens, constitute themselves into a people by their consent to a Constitution, which is approved by all.\textsuperscript{256} Hence, under modern constitutional form of political society, people are the “adequate subject”\textsuperscript{257} of all immunities and empowerments of the constitutional law. Nevertheless, a cursory reading of Dignitatis Humanae informs us that the Council fathers did not opt for a juridical approach, which is based on the principles of the constitutional law, to define the content of religious freedom. On the contrary, they relied on moral and theological arguments grounded on the principles of human dignity and rights.\textsuperscript{258} These arguments are also adduced to claim for the constitutional guarantee of immunity in matters religious.\textsuperscript{259} This requires explanation, which we provide in the section that follows.

### 2.5.6.2. Immunity from Coercion Grounded on Human Dignity

Our explanation begins with the second paragraph of article 2 of the Dignitatis Humanae that declares:

\[ \text{[T]he right to religious freedom has its foundation in the very dignity of the human person, as this dignity is known through the revealed Word of God and by reason itself. This right of the human person to religious freedom is to be recognized in the revealed Word of God and by reason itself. Thus it is to become a civil right.} \]

The emphasis of this paragraph is on the “right” to religious freedom. This calls for our attention. Right is a moral claim made on others in the societal life so that others either give someone something or do something for someone or refrain from doing something to someone.\textsuperscript{260} Two questions arise in connection with a person’s claim for religious freedom. Firstly, we will have to identify what is the content of the moral claim that one makes on others? Secondly, what is the basic reason for making such claims on others?

The conciliar document Dignitatis Humanae defines that in matters religious the content of this moral claim that every one

\begin{itemize}
  \item \textsuperscript{253} DH, article 2, para 1.
  \item \textsuperscript{254} DH, article 2, paras 2.
  \item \textsuperscript{255} This has been the unanimous affirmation of the Council Fathers. Hence, this statement has been repeated several times in the Declaration. Cf. Pietro Pavan, \textit{op.cit.}, p. 65.
  \item \textsuperscript{256} Cf. John Courtney Murray, \textit{The Problem of Religious Freedom}, \textit{op.cit.}, p. 24.
  \item \textsuperscript{257} Ibid.
  \item \textsuperscript{258} Cf. Avery Cardinal Dulles, \textit{op. cit.}, p. 165; Charles E Curran, \textit{op. cit.}, p. 229.
  \item \textsuperscript{259} Pietro Pavan, \textit{op.cit.}, pp. 65-66.
  \item \textsuperscript{260} Walter M. Abbot, \textit{The Documents of Vatican II}, \textit{op.cit.}, pp. 678-679.
\end{itemize}
makes on others is twofold immunity from coercion. This leads to the second question: What is the reason for the claim of immunity from coercion? It is the inalienable dignity of every person as a moral subject, endowed “with reason and free will.” Therefore, human dignity requires that people act on their own decision in matters religious and on their own responsibility. In this regard, the use of force in any form in matters religious is an affront to a person’s dignity and to his or her inalienable responsibility to seek the truth, especially religious truth, and to order one’s life accordingly.

The conciliar declaration Dignitatis Humanae stresses that responsibility is an inalienable aspect of human dignity. It is specifically brought out in article 2 of document, which states:

It is in accordance with their dignity as persons - that is, being endowed with reason and free will and therefore privileged to bear personal responsibility - that all men should be at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth…

However, men cannot discharge these obligations in a manner in keeping with their own nature unless they enjoy immunity from external coercion as well as psychological freedom. Therefore, the right to religious freedom has its foundation, not in the subjective disposition of the person, but in his very nature.

As stated in the above text, the content of religious freedom is given positively by grounding it in the dignity of the persons as moral subjects. According to theological anthropology, as image of God, human persons are moral subjects endowed with reason and freedom. They achieve their full humanity by acting on their own initiative and with full responsibility in seeking after the truth. This is especially true with regard to Christian doctrine of faith according to which act of faith must be a free response to the Word of God. It shows God’s respect for human freedom and human persons’ inalienable responsibility towards the direction of their lives. Hence, responsibility is an essential counterpart of freedom, which is constitutive of a person’s dignity as a moral subject.

In this theological perspective, freedom is not an end in itself but a means whereby men and women work out their destiny in a manner befitting to their dignity as persons, especially in their relationship to God. In his interpretation of the above quoted conciliar text, Avery Dulles suggests, “Freedom is given to human beings so that they may personally attain and embrace what is truly good.” Hence, Dignitatis Humanae affirms that all are “at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth…and to order their whole lives in accord with the demands of truth.” Article 2 of Dignitatis Humanae complements the negative juridical content of religious freedom, which is given as immunity from external coercion protected by the State, with a positive content, which is theological and moral in approach. In this way Vatican II makes its position clear on religious freedom on the following three points:

Firstly, religious freedom is neither religious tolerance nor a concession to religion granted by the State. On the contrary, it is the recognition in the constitutional law that religious freedom is inalienable to human dignity so that people may seek after what is true and good and organise their lives accordingly. The reason why Vatican II stresses on this point is understandable. If religious freedom means only tolerance or concession granted to people in the exercise of religion, then there is a definite reason for the State to marginalize religion in the society. Consequently, as Avery Cardinal Dulles reminds us, the State can reduce people as “instruments of society” for social convenience. This is a

261 Crf. ibid., p. 679.
262 DH, article 2, paras 3 and 4.
263 Avery Cardinal Dulles, op.cit., p. 165.
265 Louis Janssens, op.cit., pp. 63-64.
266 DH, article 2, paras 3 and 4.
267 Avery Cardinal Dulles, op.cit., p.166.
268 DH, article 2, para 3.
269 Pietro Pavan, op.cit., pp. 67-68.
270 Avery Cardinal Dulles, op.cit., p. 165.
contradiction, because political society is for the benefit of the people as free and responsible citizens. Secondly, *Dignitatis Humanae* recalls that religion is the highest realisation of the dignity of the human persons as image of God. This entails, as Pope John Paul II reiterates time and again, religious faith is a free, responsible and conscientious openness to God.271

Thirdly, the conciliar declaration *Dignitatis Humanae* stresses that religion by its very nature transcends matters temporal. Therefore, no temporal power may interpose itself, infringing upon or intruding into that which is of the intimately personal realm of human existence in which people in their dignity as free and responsible persons order their lives. These theological and moral insights embedded in the declaration *Dignitatis Humanae* lead us to conclude that the Christian concept of human dignity, presumes two distinct powers, spiritual and temporal, functioning in the society. Therefore, the Christian concept of human dignity is amenable with the concept of secular State whose duty is to protect the personal and social rights of the citizens and to promote their general welfare.272 We further explain it by going through the relevant texts of the conciliar declaration *Dignitatis Humanae*.

### 2.5.7. Human Dignity and the Concept of Secular State

In article 2 of *Dignitatis Humanae*, the conciliar advocacy for religious freedom is proposed on moral grounds. Article 3 presents the same argument based on human dignity but given in a theologicomoral ground. It is given in terms of human person’s relation to self-existing truth,273 which is the divine law, whose imperatives are known through the mediation of conscience. Human dignity demands that people responsibly respond to the divine imperatives known through conscience whose authority transcends powers temporal.

We reproduce below the relevant parts of the text, which is self-explanatory in what we have explained:

Further light is shed on the subject if one considers that the highest norm of human life is the divine law... whereby God orders, directs and governs the entire universe and all the ways of human community, by a plan conceived in wisdom and love. Man has been made by God to participate in this law...

On his part, man perceives and acknowledges the imperatives of the divine law through the mediation of conscience. In all his activity a man is bound to follow his conscience faithfully, in order that he may come to God, for whom he was created. It follows that he is not to be forced to act in a manner contrary to his conscience. Nor, on the other hand, is he to be restrained from acting in accordance with his conscience, especially in matters religious...

For, of its very nature, the exercise of religion consists before all else in those internal, voluntary, and free acts whereby man sets the course of his life directly towards God. No merely human power can either command or prohibit acts of this kind.

However, the social nature of man itself requires that he should give external expression to his internal acts of religion; that he should participate with others in matters religious; that he should profess his religion in community. Injury, therefore, is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society when the just requirements of public order do not so require.

There is another consideration. The religious acts whereby men, in private and in public and out of a sense of personal conviction, direct their lives to God transcend by their very nature the order of terrestrial and temporal affairs. Government, therefore, ought indeed to take account of the religious life of the people and show it favor, since the function of government is to make provision for the common welfare. However, it would clearly transgress the limits set

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271 *Cf.* ibid., pp. 165-167.
to its power were it to presume to direct or inhibit acts that are religious.\(^\text{274}\)

In the above passage, the first reason provided for religious freedom is the dignity of human person created in the image of God which imposes an obligation on people to seek the truth, especially religious truth, in freedom and responsibility, and the consequent obligation to follow one’s conscience, free from external coercion.\(^\text{275}\)

The second reason is drawn from the nature of religious acts. They are free and voluntary in character with which people relate themselves to God through external expressions individually and in groups as required by embodied and relational nature of the person. In this context, no human power can either command or prohibit “the free exercise of religion,”\(^\text{276}\) provided just requirements of public order are observed.

The third reason is based on the transcendent calling of human person for communion with God. The text states, “The religious acts whereby men, in private and in public and out of a sense of personal conviction, direct their lives to God transcend by their every nature the order of terrestrial and temporal affairs.”\(^\text{277}\) For that reason, government has no right to coerce or inhibit acts of religion, since religious acts transcend the limited power that the people have vested in the government. Therefore, Vatican II proposes that the political correlate of religious freedom, which is in consonance with human dignity, is the secular democratic political system, known as the constitutional State. Some of its basic principles have been incorporated in the conciliar declaration \textit{Dignitatis Humanae}.\(^\text{278}\) We identify them by going through the relevant conciliar texts in the sections that follow.

\textit{2.5.7.1. Distinction between the Sacred and the Secular}

We begin with paragraph 6 of article 3 of the Vatican II’s declaration \textit{Dignitatis Humanae}. This text considerably explains what we are searching for. The text reads:

The religious acts whereby men, in private and in public and out of a sense of personal conviction, direct their lives to God transcend by their very nature the order of terrestrial and temporal affairs. Government, therefore, ought indeed to take account of the religious life of the people and show it favor, since the function of government is to make provision for the common welfare. However, it would clearly transgress the limits set to its power were it to presume to direct or inhibit acts that are religious.

The text states that the content of matters religious transcends by its very nature the terrestrial and temporal affairs. Hence, the first principle involved in religious freedom is the distinction between the sacred and the secular order in the society. It implies that the whole excellence of human life is not confined to the temporal order of existence. On account of the transcendent calling of human persons created in the image of God,\(^\text{279}\) human freedom is opened to transcendent values and ends.


\(\text{Crf. GS, article 19, DH, articles 2 and 3. Recall the concept of human freedom}\)
From the theological point of view, the reason for the distinction between the sacred and secular is the content of the image of God doctrine. Recall our explanation of the content of creating of human persons in God’s image as absolute openness for communion with God (capax Dei). Christology sheds further light on this human transcendence. As image of God, human persons find ultimate fulfilment of their meaning of absolute openness only in the intimate communion with God. This intimate communion with God, for which every one is created, has occurred in history as revealed in a unique and unsurpassable way in the person of Jesus Christ in his theandric nature.280

The power of the State does not reach to this spiritual order of human existence. The relationship between the Church and the State is built on this principle. Both are autonomous institutions in their proper order of operation. The Council states, “In their proper spheres, the political community and the Church are mutually independent and self-governing. Yet, by a different title, each serves the personal and social vocation of the same human beings.”281 This test clearly asserts that the Church and the State are autonomous institutions functioning in the society. The link between the spiritual and the temporal institutions, between the Church and the State, is the person who is both a citizen and a Christian. The State has its secular source of legitimation, that is, the consent of the governed, while the Church’s legitimation is founded on divine commission.282

2.5.7.2. Distinction between State and Society

Under a constitutional form of government, the State is one of the agencies equipped with a limited power and function in the society.283

As defined by the constitutional law. As John Courtney Murray emphatically propounded, the State exists to exercise the coercive power of the law, limiting freedom for the benefit of society.284

Commenting on the limited power of the constitutional State, Dignitatis Humanae advocates, “For the rest, the usages of society are to be the usages of freedom in their full range. These require that the freedom of man be respected as far as possible, and curtailed only when and in so far as necessary.”285 It is a statement of the basic principle of the free society in a secular State, whose powers are limited.

Society signifies an area of freedom, personal and corporate. Freedom is the purpose of the society that sets the life-style in the society. Secular State acknowledges this aspect of the society. The theological validation of the freedom of the society is the dignity of the human person based on image theology.285

Firstly, as image of God, human persons are called to participate in freedom in the work of God, which comprises the world of secular activities, and realise their divine calling by glorifying God in the secular city.286

Secondly, as image of God, human persons participate in the work of God not alone but in solidarity with others, that is, in and through community activities on account of their relational nature.287

Therefore, Society consists of the totality of these multifarious

283 See above section 2.5.4.1: “The Transcendent Dignity of the Human person”, pp.357-360.


285 Catholic social thought consistently maintains that society is to be based upon the principle of the dignity of human person created in God’s image, directed towards justice and animated by love (human solidarity). Pope John XXIII, in his Encyclical Letter Pacem in Terris added one more character, freedom. Freedom is the goal of the civil society (PT, n.35).

286 Crf. GS, articles 34, 35. See above section 2.5.2.1: “The Concept of World”, pp. 328-331.

287 Crf. GS, 12, para 5.
community activities and community interactions through which people actualise their existence and realise their calling in life not by force but in responsible freedom.

In terms of religious freedom, it means that religions are not excluded from their role in the broader society. Commenting on the public responsibility of religion in the society, *Dignitatis Humanae* asserts, “[I]t comes within the meaning of religious freedom that religious bodies should not be prohibited from freely undertaking to show the special values of their doctrine in what concerns the organization of society and the inspiration of the whole of human activity.”288 This statement rejects the outmoded notion that religion is purely a private affair, but affirms that religious freedom includes the right to point out the social relevance of religious beliefs. This is not incompatible with the concept of secular State.

It is due to the fact that the State signifies an area in the society where it exercises its coercive powers when needed, whereas society signifies the vast area of personal and corporate freedom, including religious freedom. To deny this distinction is an affirmation of secular monism wherein the State and society and all sectors of human activities are seen as one single ontological unit, which amounts to totalitarianism.

2.5.7.3. Distinction between Common Good and Public Order

The distinction between common good and public order follows from the distinction between society and State. This distinction also has its basis in human dignity. It is not only in relation to the world of things that human persons have an “exalted dignity”289 but also in the society in so far as people are the subjects of all rights and duties in the society in the realisation of their destiny.290 Therefore, society must not absorb people for itself; because society flourishes only to the extent people develop themselves in responsible freedom.

Society is not a collection of individuals but a freely accepted common life of persons who, in communion with each other, promote the common welfare of all.291

Common good is the purpose of the society. The common good includes all social goods, namely material, moral and spiritual, which all pursue here on earth in accord with their personal and social nature.292 The conciliar declaration *Dignitatis Humanae* stresses that the care of the common good is the responsibility of all in the society. Therefore, the care of the right to religious freedom devolves upon the people as a whole, on all communities and institutions of the society, including government. It is in virtue of the duty, which is implied in the responsible use of freedom in a free society, that the care of the common welfare devolves on all in a manner that is proper to each.293

Maintenance of public order, protection and promotion of fundamental rights are the purposes of the State. The role of the coercive power of the State is determined by the purposes of protecting people from violence in a manner appropriate to the inalienable dignity of the human persons. This is known as the maintenance of public order. Vatican II’s description of this role of the State is self-explanatory. It says:

> These norms arise out of the need for effective safeguard of the right of all citizens [fundamental rights] and for peaceful settlement of conflicts of rights. They flow from the need for an adequate care of genuine public peace…They come, finally, out of the need for a proper guardianship of public morality. These matters constitute the basic component of the common welfare: they are what is meant by public order.294

Correspondingly, it is the essential duty of the State to protect and promote religious freedom. The declaration

288 *DH*, article 7, para 4.
289 *GS*, article 26, para 2.
290 The present Pope John Paul II has developed on the concept of human subjectivity in relation to society, political order and the world of work. See *SRS*, nn. 15, 16, 30, 31; *CA*, nn. 44, 45.
293 *DH*, article 6, para 1.
Dignitatis Humanae says:

The protection and promotion of the inviolable rights of man rank among the essential duties of government. Therefore, government is to assume the safeguard of the religious freedom of all its citizens, in an effective manner, by just laws...Government is also to help create conditions favorable to fostering of religious life...in order that society itself may profit by the moral qualities of justice and peace...295

The conciliar document Dignitatis Humanae enjoins on the State twofold duty concerning religious freedom. The first duty is to acknowledge that religious freedom is a fundamental right and effectively to protect it against violation, because this duty devolves on the State in what pertains to providing protection to matters of all fundamental rights. The second duty derives from the general duty of the government that consists in assisting the people in the performance of their duties.296 In this case, it is the duty of the State to assist in creating conditions that will help and not hinder people in the free exercise of their religious rights and performance of their religious duties.

2.5.7.4. The Subject of the Right to Religious Freedom

We have seen earlier297 that the right to religious freedom is immunity from coercion in matters religious. This is how Vatican II defines religious freedom in articles 2 and 3 of Dignitatis Humanae. In these texts, the focus is on the general application of this right to individuals and corporate bodies. Articles 4 and 5 of Dignitatis Humanae describe the subject of religious freedom in its corporate aspect, basing it on the social nature of the human person.298 This we study in this section. In matters religious, the people as such in their dignity as moral subjects - individually, collectively and in their corporate associations - are the subjects of religious freedom.299

The corporate religious freedom is the right of religious communities within society for corporate internal autonomy. Dignitatis Humanae declares:

The freedom or immunity from coercion in matters religious which is the endowment of persons as individuals is also to be recognized as their right when they act in community.

Provided the just requirements of public order are observed, religious bodies rightfully claim freedom in order that they may govern themselves according to their own norms, honor the supreme Being in public worship, assist their members in the practice of religious life...and promote institutions in which they join together for the purpose of ordering their own lives in accordance with their religious principles.

Religious bodies also have the right not to be hindered, either by legal measures or by administrative action on the part of government, in the selection, training, appointment, and transferral of their own ministers, in communicating with religious authorities and communities abroad, in erecting buildings for religious purposes, and in the acquisition and use of suitable funds or properties.300

The conciliar declaration Dignitatis Humanae holds that this corporate freedom of religion equally applies to family. The extension of the corporate freedom of religion to family is on account of the nobility of the family as a basic human community founded on the theology of human dignity. Therefore, the document says, “[T]he family is a society in its own original right, it has the right freely to live its own domestic religious life under the guidance of parents,”301 including the parents’ right to decide upon the kind of religious education children are to receive.

The corporate freedom of religion also comprises the freedom of religious association.302 First, it entails the right to immunity from coercion in affiliating or in ending affiliation with organised religious communities within society for corporate internal autonomy.
bodies. Second, it implies the same immunity in the formation of associations for religious, charitable, educational, cultural purposes “under the impulse of their own religious sense.”

Vatican II comments also on the freedom of religious expression. It is the right both of the individuals and of religious bodies, to immunity from coercion in what concerns the public worship of God, public religious observances, public practice, public proclamation of faith as well as the public declaration of the implications of religion and morality for the temporal affairs of the community and for the action of the public powers. The reason is that religion as the ultimate concern is concerned with the whole person, since human person in his or her totality in terms of total relationships and activities in the world is the image of God, and remains open to God.

In concluding our study of the conciliar document Dignitatis Humanae, we sum up that the Church’s advocacy for religious freedom in its various aspects are those which the Church claims for itself as well as for others. The juridical content of the right to religious freedom is same for all religious communities or any section thereof. This consists in immunity from coercion in matters religious. However, documents of Vatican II do not treat the religious freedom only as a political doctrine but sees its raison d’être from theological and moral points of view.

Vatican II sees the right to religious freedom grounded in the dignity of the human persons created in the image of God and the vocation of all people to share in divine life (capax Dei) as seen in the mystery of Jesus Christ. This theological perspective provides a substantive ethical reason for the concept of religious freedom as an inviolable right, which is known through revelation and by reason. The Council also stresses that religious freedom is not an end in itself, but a means for the fulfilment of the higher purposes of life in the civil society. For this reason, Human dignity consists in the responsible use of freedom in one’s search for the truth, and in one’s relationship to God, to society and to earthly goods. These responsibilities pervade the entire societal life in the political community.

2.5.8. Conclusion: A Human Dignity Centred Political Doctrine

We have studied the theology of human dignity and its doctrinal principles as developed in the theological anthropology of the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes. We have also studied its application for the affirmation of religious freedom as a legal institution of the juridical order of the State, and the establishment of the constitutional State as given in the conciliar declaration Dignitatis Humanae. This document presents the Church’s teachings on constitutional State in relation to religious freedom. We sum up the important principles that we found in our investigation. All of them are intended to protect human dignity from violation in the civil society.

The first principle implied in the Church’s approach to the political community regarding matters religious is that the right to religious freedom is a fundamental right. It has its foundation in the very dignity of the human person, which is known through revelation and by reason itself. This right is to be recognised in the constitutional law, whereby it should become a civil right. As a civil right, religious freedom means that the political community should respect people in their exercise of religion, which means not to violate people’s right to free exercise of religion.

The violation of the right to religious freedom is a serious attack on the inalienable worth and dignity of the people as moral subjects; because it puts off their right to seek the truth, especially religious truth, and to organise their lives in accordance with their judgments of conscience. It is for this reason, as a constitutional right, religious

303 Ibid., para 5.
304 Ibid., paras 2, 5. Cf. GS, 76.
305 Ibid., article 13.
306 GS, article 12, 19, 22; DH, article 3.
308 DH, article 8.
309 Ibid., article 2, para 2.
310 Ibid., article 3, paras 5, 6.
freedom attaches twofold immunity on everyone. It means that in matters religious no one is forced to act contrary to one’s belief or, within due constitutional limits, no one is restrained from acting according to one’s belief, whether privately or publicly, whether alone or in association with others.\textsuperscript{311}

The second principle is that religious freedom as a constitutional right stands for the affirmation of the value of pluralism in the society. As a civil right, religious freedom means that everyone has the right to follow the religion of one’s own choice or reject them all. Consequently, the right to religious freedom requires that the political community ought to respect the inherent worth and dignity of each person in his or her self-identity and the community of persons in their plural community identities, because religious faith provides enduring and powerful identity both to individuals and communities in the civil society.\textsuperscript{312} Hence, religious freedom recognises the political community as a plural society and the State is duty bound to protect its plural character.\textsuperscript{313}

The third principle is that the distinctions arising in the constitutional order of the State, namely the distinction between the sacred and the secular, State and society, and common good and public order, are the protective distinctions to avoid the violation of human dignity. These distinctions function as instruments to respect and promote the values of a free society founded on the principle of human dignity. It is only in a free society human life flourishes in its various aspects with responsible freedom, because, as image of God, human persons are always and everywhere the subjects of the society and in all activities that they do.\textsuperscript{314}

The fourth principle is the necessary harmony and cooperation that should exist between religion and State.\textsuperscript{315} This is based on the fact that both are necessary institutions divinely ordained in the nature of human persons to take care of the two necessary needs, namely the spiritual and temporal needs.\textsuperscript{316} Both institutions are independent and autonomous in their respective order of function. They are empowered by their respective sources of legitimation.\textsuperscript{317} Religion derives its legitimation from a spiritual source, while the State receives its legitimate power from the consent of the governed; but both meet in the conscience of the individual person who is both a citizen and a believer. Therefore, the protection of human dignity demands functional harmony between religion and State for the integral welfare of the people for whose good religion and the State exist in the society.

The reason to have necessary cooperation between religion and State arises from the necessary harmony that should exist between the two institutions. The contribution of each to the other is indirect but necessary, because both have their respective responsibilities for the societal life of the people. Religion is at the service of the society to impart spiritual and moral values to people in the civil society. These are substantive values in defence of human dignity.\textsuperscript{318} The State provides temporal structures that are conducive for the religious need of the people in order that people may truly exercise their rights and duties in matters religious.\textsuperscript{319}

The fifth principle is that the State is a natural institution. It is founded on the social nature of the people, which is a necessary consequence of their creation in the image of God.\textsuperscript{320} The purpose of the State is for the protection of the common good so that all people, as ordained by God, benefit the goods of creation.\textsuperscript{321} The concept of common good\textsuperscript{322} avoids the extremes of individualism and collectivism. Individualism negates the good of the society, while

\textsuperscript{311} Ibid., para 1.
\textsuperscript{312} Ibid., article 7.
\textsuperscript{313} Ibid., article 6, paras 3, 4; GS, articles 29-32, 73-74.
\textsuperscript{314} DH, article 3, para 6; article 7, para 4; GS, article 19; article 26, para 2; article 76.
\textsuperscript{315} GS, articles 40 - 41.
\textsuperscript{316} GS, article 25.
\textsuperscript{317} GS, article 76; DH, article 13.
\textsuperscript{318} DH, article 4, para 5; GS, article 40, para 5; articles 41-42.
\textsuperscript{319} DH, article 4; article 6, para 2.
\textsuperscript{320} GS, articles 24-25, especially article 12 para 5 and article 25 para 2.
\textsuperscript{321} DH, article 6, paras 1, 2; GS, articles 26, 74.
\textsuperscript{322} Common good is an important theological concept in the Catholic social teaching. The Popes have consistently stressed on this value. See RN, nn.27-29; MM, nn.65.
collectivism destroys the good of the individual for the sake of the society. On the contrary, the concept of the common good aligns the good of the individual and of the community in the civil society on the basis of an egalitarian anthropology and welfare State. In this manner, by promoting common good, the State protects the values of dignity and the social nature of the people by promoting a humane social order.

These fundamental human values, which are embedded in the theological anthropology, are also found in a significant manner in the philosophy of the secular provisions of the Constitution of India. For both, dignity and social nature of the human person are the defining values in their respective approach to the political order. These are discussed in chapter six which concludes this research project.
CHAPTER SIX

Indian Church in Dialogue with Indian Secularism

2.6. Introduction

In this chapter we discuss, first of all, the importance of human dignity in the philosophy of Indian secularism and in the teachings of the Church on religious freedom and constitutional State. For this purpose, we highlight, from the findings of our research as given in the preceding chapters, the salient features of Indian Secularism, which is intended to secure human dignity. Similarly, we collate the most important features of the Church’s teachings on religious freedom and constitutional State as seen in the documents of Vatican II, *Gaudium et Spes* and *Dignitatis Humanae* that has been discussed in detail in chapter five. This conciliar teaching is based on theological anthropology, which gradually developed in the tradition of the Church as we have shown it in chapter four. It is, sourced by biblical insights, which is centred on the dignity of the human persons as image of God.

Secondly, we identify a common anthropological approach, which we refer to as “relational anthropology,” underlyng in the philosophy of the Indian secularism and in the theological anthropology of Vatican II. Subsequently, we explain the humanistic significance of the relational anthropology to the philosophy Indian secularism and to theological anthropology. This we do by identifying an ethical principle ingrained in the logic of relational anthropology, which we term as ethics of “interhuman concerns” because it is concerned with human care.

Through the mediation of the ethics of interhuman concerns, we connect the sustentative values of the philosophy of Indian secularism, which are also ethical in content, though function as a political principles, with the values of the Kingdom ideals proclaimed by Jesus. Thereby, we establish a theological correlation between the Kingdom ideals and the humanistic values of the philosophy of Indian secularism as seen in the Constitution of India. From theological point of view, this is the basis for the Church to support Indian secularism as provided in the Indian Constitution, since the values of interhuman concerns protect human dignity. The mission of the Church is precisely to be at the service of the Kingdom that Jesus inaugurated, and the kingdom values are the values of interhuman concerns. They are humanistic in so far as they are concerned with human care.

Thirdly, following the conciliar path of dialogue with the civil society,1 we discuss the possible areas in which the Indian Church may offer its services in dialogue and collaboration with the civil society to strengthen and nurture the humanistic secular political order in the country. These are the common concerns of the Church as well as the secular State in India as both are committed to secure human dignity.

2.6.1. The Importance of Human Dignity to Church and State

We have seen in the preceding chapters the origin and development of the secular State in the context of Western and Indian traditions. The theory originated from Christianity when the Church in the Roman Empire encountered state-coercion in matters religious. The origination of the theory is based on a distinction that Christianity advocated between the temporal and spiritual powers and their limitations in their respective functions in the society.

The modern theories of political secularism, which in the course of long Western political history led to create the institution of constitutional State, developed in the context of denominational

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1 For the conciliar path of dialogue as proposed by Vatican II see above chapter 5, section 2.5.1.2: “Conciliar Design of Dialogue on Three Levels”, pp. 324-328 and section 2.5.2: “Dialogue with the Secular World”, p. 328.
conflicts and the emergence of nation-states in the Western European countries. As a political answer to religious conflicts, the proponents of these theories eventually campaigned for the idea of constitutional State based on civil liberties, egalitarian social order and equal protection before the law, which rendered religious affiliation irrelevant to citizenship. As one of the civil liberties, religious freedom came to be treated as a legal institution in the juridical order of the State.  

India has adapted a unique kind of secular polity appropriate to its culture and political need. The Indian form of secularism stands for the separation of the State from religion, equal protection of all religions, and active opposition to communalism. According to Indian secularism, the separation of the State from religion means neither marginalization of religion from the public sphere nor maintaining a strict procedural separation – the blind law of separation for the sake of separation – known as the “wall of separation between religion and State.” This is not warranted by the common Indian sensibility, but separation means the State keeps a “principled distance from religion.” Surely, the constitutional provisions of the Indian Secularism uphold the autonomy of the State and religion in their proper sphere of function in the society. Nevertheless, the State and religion function in an environment of harmony and cooperation between them. Consequently, the Constitution guarantees religious freedom, because religion is legislated into the secular Constitution as one of the important institutions of human need.  


5 This has been especially stressed when the Supreme Court of India was appealed to define “matters of religion.” See Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Tirtha Swamiar of Sri Shirur Matt, AIR 1954 SC 282, at 290; Ratilal Panachand Gandhi v. State of Bombay, AIR 1954 SC 388, at 391-392.


7 Some of the State Government and Central Government enactments for state intervention are the following: The Madras Hindu Religious and Charitable Endowment Act, 1951 (Madras Act 19 of 1951); The Bihar Hindu Religious Trust Act, 1950 (Bihar Act 1 of 1951); The Bombay Public Trust Act, 1950 (Bombay Act 29 of 1950); The Mussalman Waqf Act, 1923 (Act 42 of 1923); The Charitable and Religious Trust Act, 1920 (Act 14 of 1920); etc.


9 In the case of Maneka Gandhi v. Union of India, while commenting on the purpose of the fundamental rights as guaranteed in Part III of the Constitution, Justice P.N. Bhagawati of the Supreme Court of India said, “These fundamental rights … are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent.” AIR 1978 SC 597, at 619.

10 Articles 29 (1) conserves the linguistic and cultural pluralism. Article 30 (1) provides right to all religious and linguistic minorities to establish and administrate educational institutions of their choice.
through revelation and by reason itself. Religious freedom protects pluralism in the civil society by securing freedom of conscience in defence of human dignity. A constitutional State, which is structured on the principles of distinction between the State and religion, State and society, and common good and public order, is in accord with human dignity. While preserving the autonomy and order proper to religion and State, human nature requires harmony and cooperation between these institutions, since both are meant for the good of the people. The State is a natural institution arising from the social nature of the people. Its purpose is to protect the common good and public order keeping in view to secure the inviolable rights of people in their dignity as moral subject.

2.6.2. Relational Anthropology in the Constitution of India

We have noted that human dignity in its personal and social aspects is central to the philosophy of humanistic secularism of the Indian Constitution and to the teachings of Vatican II on religious freedom and constitutional State. This leads us to look for the root of common concern embedded in the conciliar teaching on religious freedom and constitutional State (the Church) and in the philosophy of the humanistic secularism as found in the Indian Constitution (the State). This investigation is needed to classify the kind of approach that the Church and the State in India take towards human person. Therefore, we need to look into the kind of anthropology implicit to both systems of thought.

According to the teachings of Vatican II, religious freedom has its foundation in the very dignity of human persons, that is, beings endowed with reason and free will, to seek after the truth and to order their lives in responsible freedom. This dignity is known through revelation and by reason itself. Religious freedom protects pluralism in the civil society by securing freedom of conscience in defence of human dignity. A constitutional State, which is structured on the principles of distinction between the State and religion, State and society, and common good and public order, is in accord with human dignity. While preserving the autonomy and order proper to religion and State, human nature requires harmony and cooperation between these institutions, since both are meant for the good of the people. The State is a natural institution arising from the social nature of the people. Its purpose is to protect the common good and public order keeping in view to secure the inviolable rights of people in their dignity as moral subject.

in their specific community identities are enabled to coexist in
harmony.\footnote{Articles 25, 26, 29 and 30 of the Constitution of India. For the judicial interpretation of these articles with appropriate cases see above chapter 3, especially section 1.3.3: “The Exercise of Religion Subject to State Restriction”, p.178.}

From the anthropological point of view, implicit in this approach is a belief in the inalienable worth and dignity of the human person as a moral subject in one’s personal identity and the community of persons in their distinct community identities in the pluralistic society. In other words, the constitutional approach to individuals is seen in terms of their dignity and social nature. Hence, the person is seen in his or her dignity as a freely choosing, morally committed (i.e., a moral subject), and socially related individual (i.e., a relational being).\footnote{The religious dimensions of the freedom of choice, individual and corporate, etc., are given in articles 25 and 26. Other general categories of freedoms, individual and corporate, etc., are given in article 19 of the Constitution of India.} This means that the person who is endowed with dignity is social by nature. In this case, the human rights, which are intended to protect human dignity, are interpreted not in an individualistic sense, but in a relational (social) context with a strong sense of social responsibility to promote social welfare, especially the welfare of the weaker sections of society and the common good. In other words, the individual person in his / her dignity is seen not as a monad but as a member of a community in a society. This interrelated approach to human person under the aspects of dignity and relational (social) nature is what we mean by relational anthropology.

The first consequence of the relational anthropological approach is that the constitutional rights of the individuals are accompanied with a strong sense of duty to protect the common good or to care for others. This would become clear when we examine article 19 of the Constitution.\footnote{The matters related to the practice of religion subject to common good, etc., have been discussed in detail in chapter 3. See above chapter 3, section 1.3.3: “The Exercise of Religion Subject to State Restriction”, pp.178. This pattern is maintained in all provisions of the civil rights.}

Clause (1) of article 19 reads:

\begin{enumerate}
\item All citizens shall have the right -
\item (a) to freedom of speech and expression;
\item (b) to assemble peacefully and without arms;
\item (c) to form associations of unions;
\item (d) to move freely throughout the territory of India;
\item (e) to reside and settle in any part of the territory of India; and\footnote{Sub-clause (f) provided the right to own private property as one among the fundamental rights. This right has been omitted by the Constitution (Forty-fourth Amendment) Act, 1978, Sec. 2 (w.e.f. 29th June, 1979).}
\item (f) *** *** *** *** ***
\item (g) to practice any profession, or to carry on any occupation, trade or business.
\end{enumerate}

This article contains six kinds of freedom. These are generally guaranteed in all constitutions of the liberal democratic polity. The scheme of the article 19 is that clause (1) provides with several kinds of freedom and clauses (2) to (6) of the same article enumerate cases in which the said rights to freedom can be regulated by the State for the common good or for social welfare and reform.\footnote{Clauses 2 to 6 of article 19 read:
\begin{enumerate}
\item (2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of [the sovereignty and integrity of India,] the security of the State, friendly relations with foreign State, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.
\item (3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of [the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
\end{enumerate}}

It means that the secular Constitution of India does not subscribe to an approach, which absolutizes the liberty of the individual as advocated by the philosophy of value-neutral liberalism, propagated by social philosophers like John Stuart Mill and others. John Stuart Mill, for instance, propounded the theory that the only freedom, which deserves the name, is that of pursuing our own good in our
own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. According to him, all restraint, _qua_ restraint, is an evil.22

On the contrary, Dr. P. B. Gajendragadkar, one of the renowned Chief Justices of India, comments that Indian Constitution seeks to establish a rational synthesis of harmony between individual freedom, which is guaranteed by clause (1) of article 19 and the claims for the public good. Surely, liberty of the individual is an essential feature of the secular Constitution of India.23 But when “the right of the individual is in sharp conflict with the claims for the public good, the former has to yield to the latter,”24 and must submit to the principle of common good. Therefore, the individual rights are judicially interpreted in the context of common good on account of the interdependence of people based on their social nature. What is implied here, from the ethical point of view, is an “ethics of interhuman concerns,” that is, to care for the other.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or the public order or morality reasonable restriction on the exercise of the right conferred by the said sub-clause.

(5) Nothing in [sub-clause (d) and (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clause either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, -

(i) the professional or technical qualification necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.


23 See how the “freedom of conscience” is placed over and above religious freedom as such as given in clause (1) of article 25 of the Constitution of India.


The second consequence of the relational anthropological approach is seen in the humanistic vision of the civil society ingrained in the secular provisions of the Constitution. The Constitution approaches the civil society as a community composed of diversity of communities with their specific community identities as human communities. Therefore, community diversities, such as religious, cultural, and linguistic, are protected as the specific and concrete forms in which people live in their relational nature in a pluralistic society.25 It means that the philosophy of the humanistic secularism of the Indian constitution safe guards human dignity in its personal and social aspects. The observation of Michael Amaladoss, one of the Indian theologians, corroborates what we are trying to say. Looking at the Indian Constitution he comments:

While the western approach to civil liberties is spelt out in terms of individual rights, the Indian Constitution takes seriously the identity and rights of groups, especially of the minorities. Such an approach is very much discussed today in terms of multiculturalism in North America both in the USA and in Canada. Particularly in the USA, what was touted as the “melting pot” is now becoming a “salad bowl”, in which the identities of different cultural groups have to be respected and integrated in the ordering of civil society. The Indian Constitution tried to do this seriously by its recognition of minority rights.26

In keeping with the relational anthropology, the Constitution maintains also a supportive approach between the State and religion, because people are related to both institutions as citizens and believers. This supportive approach is, nevertheless, held within the rule of principled distance on rational grounds that the State keeps from religion or from any group of the people in their specific community identities. Moreover, the Constitution maintains a principled approach between individual rights and common good, and follows a social policy of harmony between various communities and groups in the political community.

25 Articles 25, 26, 29 and 30 of the Constitution of India.

The purpose of this type of constitutional approach is to create a political order, whereby people may organise their ways of life according to their perspectives of God and the good in a just and humane social order, which secures the fundamental values of human dignity. Certainly, the guiding ethics implied in the idea of principled distance that the State in India maintains towards religion and all sections of people in the civil society is the ethics of interhuman concerns, since the State cares for all in their dignity as human persons.

2.6.3. Relational Anthropology in Theology

The relational anthropological approach in theological anthropology is palpable. It is based on the doctrine of *imago Dei*. According to theological anthropology, human dignity and social nature are correlated. These are the divine endowments rooted in the creation of human beings in the image of God. Human beings are image of God, since God has given them the capacity for interpersonal communion with God (*capax Dei*), the absolute Thou. This is the foundation of their dignity as persons, endowed with reason and freedom as well as inalienable rights and obligations, to seek after the truth and to organise their life in responsible freedom. 

The capacity for God is also the ground for the relational nature of the people, their possibility and the necessity for relationality and to live in community. So, the rights and obligations are grounded in the dignity of every person who is called to live in communion with God and in solidarity with others.

These principles of theological anthropology have been repeated throughout the conciliar documents, *Gaudium et Spes* and *Dignitatis Humanae*. To make our point clear, we cite few passages, which we have studied in detail elsewhere:

27 See above chapter 5, section 2.5.3: “The Theology of Human Dignity in *Gaudium et Spes*”, pp. 334-344.
28 GS, articles 12 and 19.
29 Joseph Ratzinger, “The Church and Man’s Calling”, *op.cit.*, p. 122.
30 DH, article 2, paras 1-3.
31 Joseph Ratzinger, The Church and Man’s Calling, *op.cit.*, p.122; GS, article, 12.
32 GS, articles 23, 24.

[Sacred Scripture teaches that man was created “to the image of God”, is capable of knowing and loving his Creator, and was appointed by Him as master of all earthly creatures…

But God did not create man as a solitary. For from the beginning “male and female he created them” (Gen.1: 27). Their companionship produces the primary form of interpersonal communion. For by his innermost nature man is a social being and unless he relates himself to others he can neither live nor develop his potential.

God, who has fatherly concern for everyone, has willed that all men should constitute one family and treat one another in a spirit of brotherhood. For having been created in the image of God…all men are called to one and the same goal, namely, God Himself.

For this reason, love of God and neighbor is the first and greatest commandment…Indeed, the Lord Jesus, when He prayed to the Father, “that all may be one…as we are one”…opened up vistas closed to human reason. For He implied a certain likeness between the union of the divine Persons, and in the union of God’s sons in truth and charity. This likeness reveals that man, who is the only creature on earth which God willed for itself, cannot fully find himself except through sincere gift of himself.

The truth is that only in the mystery of the incarnate Word does the mystery of man take on light. Christ, the final Adam, by the revelation of the mystery of the Father and His love, fully reveals man to man himself and makes his supreme calling clear.

For by His incarnation the Son of God has united Himself in some fashion with every man.

As an innocent lamb He merited life for us by the free shedding of His own blood. In Him God reconciled us to Himself and among ourselves.
All this holds true not only for Christians, but for all men of good will in whose hearts grace works in an unseen way. For, since Christ died for all men, and since the ultimate vocation of man is in fact one, and divine, we ought to believe that the Holy Spirit in a manner known only to God offers to every man the possibility of being associated with this paschal mystery.35

[T]he right to religious freedom has its foundation in the very dignity of the human person, as this dignity is known though the revealed Word of God and by reason itself… It is in accordance with their dignity as persons – that is, beings endowed with reason and free will and therefore privileged to bear personal responsibility – that all men should be at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth, once known, and to order their whole lives in accordance with the demands of truth.36

Obviously, the structure of the relational anthropology is self-evident in the above passages. Theological anthropology sees human person in relationship with God, other people and earthly realities. Accordingly, in keeping with the biblical insight of relational anthropology, the theological anthropology of Vatican II stresses on the rights and duties, and brings out the importance of common good and public order.37 Definitely, here too, from the ethical point of view, the emphasis is on interhuman concerns.

Furthermore, the christological perspective of the human person adds a transcendent value to human dignity and social nature. It means that created in the image of God and redeemed by Christ, all are children of God. All are destined for the flourishing of life in the blessed communion with God who is a community of three divine persons. Therefore, seen from the christological point of view, the ethics of interhuman concerns is intensified as well as it provides us with a deeper insight into the theological content of ethical concerns. Consequently, Christian faith calls for committing oneself to an ethical policy of interhuman concerns.

Moreover, the theological anthropology sees that the fullness of human relationality is ultimately rooted in humankind’s relationship with the Triune God.38 The mystery of the Triune God is an invitation to Christian believers and to all people to rise above all mechanism of egoism and monadic existence and to live their vocation of communion based on the ethics of interhuman concerns. As Leonardo Boff reminds us,39 a society offends the Triune God by organising itself on the basis of crass individualism but honours Trinity by committing to organise itself the more in favour of sharing and in solidarity with all, thereby to bring about a just and humane social order and equality of all informed by the values of interhuman concerns. Christians learn about the ethical policy of interhuman concerns from the story of Jesus and from the values of the God’s kingdom that he shared with us.

The kingdom values are the values of interhuman concerns, because these are the concerns of a God, who cares for the people created in God’s image as shown in the mission and ministry of Jesus. Consequently, by the mystery of Incarnation,40 humanity has become the locus of encounter with God and God-experience is mediated to us in and through interhuman concerns.41 All kinds of works people do and all institutions, which uphold and promote the ethics of interhuman concerns, protect people in their dignity and, therefore, reflect the Kingdom ideals.

The Kingdom ideals, which Jesus inaugurated, are geared towards creating human communities of freedom, fellowship and

35 Ibid., article 22.
36 DH, article 2.
37 GS, articles 26, 74, DH, articles 4 and 6
38 Leonardo Boff, op.cit., pp. 23-24
40 The Creed of Constantinople I (A.D. 381) states: “For us men and for our salvation he came down from the heavens, and became flesh from the Holy Spirit and the Virgin Mary and was made man.” Crf. J. Neuner and J. Dupuis, The Christian Faith, op.cit., p. 9.
41 For complete treatment of this theme see above chapter 4, section 2.4.2.2: “The Image of God and New Humanity in Christ”, pp. 258-260 and section 2.4.2.3: “Image of God as Children of God”, pp. 260-265.
justice\textsuperscript{42} for the humanisation of people and their institutions. These are the acts of interhuman concerns, precisely because they are the concerns of human care for the protection of human dignity, beginning with the least in the society, the \textit{anawim},\textsuperscript{43} to whom dignity is denied in the society. It is with these category of people Jesus identified his mysterious presence.\textsuperscript{44} In the Kingdom that Jesus proclaimed, every person is respected in one’s dignity as the living image of God, and equality of all are affirmed as children of God.\textsuperscript{45} The kingdom ideals Jesus shared are essentially fellowship and communion among people who accept the reign of God and its demands. The call of the Kingdom is basically communitarian. Kingdom is the loving and liberating presence of God among people as incarnated in Jesus.

The ethics of interhuman concerns as seen in the Kingdom ideals of Jesus, resonates with the concerns of political institutions in so far as they are in some way rooted in relational anthropology. The reason is that, from the ethical point of view, the world vision of the relational anthropology is humanistic in character. It is directed towards the creation of a humane social order, which operates against the forces of oppression and dehumanisation in the political community. The world vision of the relational anthropology sets forth in the society a counter-culture, which is inclusive and pluralistic as well. It implies commitment for the care of the other in the society, a readiness to defend human life as against a culture of deprivation of the neighbour. There is no space under relational anthropology for the question: “Am I my brother’s keeper?”\textsuperscript{46} In short, the values rooted in the relational anthropology are the values that support human dignity. In theological parlance, these values are intrinsic to the doctrine of \textit{imago Dei}. They attain, a transcendent significance in the theologico-ethical order when seen in the christological horizon.

The philosophy of the humanistic secularism enshrined in the Constitution of Indian is based on relation anthropology, since the spirit and the tenor of the ethics of interhuman concerns animate its secular provisions. Consequently, it reflects the Kingdom ideal that Jesus proclaimed. As political principles, the values of interhuman concerns operate through the ‘idea of principled distance’ that the State in India keeps from religion and from the interests of all communities, because its objective is to humanise the Indian society in a manner worthy of human dignity. In chapter three we have studied in detail its humanising effect on the Indian society in a manner that is revolutionary in character. Nevertheless, to make our point clear, we illustrate it once again through the operation of article 25 of the Constitution.

Article 25 is a key article of the secular provisions of the Indian Constitution. This article provides the constitutional guarantee of religious freedom but subject to so many conditions: to public order, morality and health, and to the other fundamental rights guaranteed to all citizens. In other words, if under the guise of freedom of conscience or religious freedom, any citizen performs an act, which is inconsistent with these constitutional conditions, that act will not be protected in the public sphere under article 25. It is due to the reason that under the philosophy of humanistic secularism, the State in India has to balance the benefit of a religious act with the common good which protects a civilised life for all.\textsuperscript{47}

This is made explicitly clear once again by the provisions as provided in clause (2) of article 25, since this clause empowers the


\textsuperscript{44} Mt 25: 31-46. Serving the poor in the margins of the society seems to be the criterion on which one is judged on the Last Day.

\textsuperscript{45} See above chapter 4, section 2.4.2.3: “Image of God as Children of God”, pp.260-265.

\textsuperscript{46} Gen, 4:9.

\textsuperscript{47} Judicial decisions related to these constitutional provisions are discussed in chapter 3. See chapter 3, section 1.3.3: “The Exercise of Religion Subject to State Restrictions” p. 178 ff.
State to make laws regulating or restricting any economic, financial, political or other non-religious activities that may be associated with religious practice. These regulatory measures of the State cannot be impeached on the ground that they impede religious freedom. Similarly, if social reform or social welfare measures are introduced in any Legislature, they cannot be challenged on the ground that these legislations contravene or intrude into religious tenets, beliefs, practices or community interest, etc.48

What one sees in the constitutional objectives implied in article 25? Obviously, religion itself is subject to a process of humanisation. Religion is challenged to be humane. Recall sabbatical laws cannot subjugate what is truly of human concern!49 This is how the Kingdom values of interhuman concerns operate through the secular provisions of the Indian Constitution because its underlying vision of the human person is guided by the ethics of relational anthropology. Certainly, “God’s Spirit…is not absent”50 from the constitutional objectives, since they are intended for the humanisation of the Indian society keeping in view to defend human dignity, which is a divine endowment for creating human beings in God’s image.

In so far as the secular Constitution of India is based on relational anthropology, it is committed to humanising values, because these values are based on the ethics of interhuman concerns. Indeed, these values of humanisation are also articulated in the Preamble of the Constitution that contains the ideals and the aspirations of the people of India, who gave to themselves a Secular Constitution. These are given in the Preamble in terms of securing to all citizens social, economic and political justice; liberty of thought, expression, belief, faith and worship; equality of status and opportunity; promotion of human solidarity (fraternity) among citizens with the aim of assuring the dignity of the individual as well as the unity and integrity of the nation.51

Supreme Court of India held that the Preamble is of extreme important and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble. See Kesavananda Bharati v. State of Kerala, Air 1973 SC 1461. These ideals of the nation as given in the Preamble have been further elaborated in Part III of the Constitution which contains the fundamental rights and in Part IV of the Constitution which provide the Directive Principles of the State Policies. Commenting on the Constitution of India, Granville Austin opined: “The Indian Constitution is first and foremost a social document. The majority of its provisions are either directly aimed at furthering the goals of the social revolution or attempt to foster this revolution…Yet despite the permeation of the entire constitution by the aim of national renascence, the core of the commitment to the social revolution lies in Parts III and IV…These are the conscience of the Constitution.” Granville Austin, The Indian Constitution: Corner stone of a Nation, op.cit., p. 50.

The constitutional objectives, which are given in the form of socio-economic and political policies of the secular State, govern in guiding individuals’ relationship with the State as citizens and their intercommunity relationship in the political community. They reflect the values of the Kingdom as they are guided by the ethics of interhuman concerns, namely care and respect for the other. These constitutional provisions and institutions influence the relationship of citizens in the political community to secure human dignity.

Seen theologically, these secular provisions of the Constitution of India are also the call of God, “the signs of the times,” in the Indian political scenario. They articulate, in the political context of India as a nation-state, the cherished will of the people to create a welfare State for a better human life.52 Hence, together with the civil society, the Church in India is invited to respond to this call - “the signs of the times.” Its purpose is to strengthen the humanistic secular fabric of the political community in a manner proper to human dignity. It is precisely at this point that the role of the Church comes in as a partner in dialogue and collaboration with the civil society. For this, we gaze at the experience of the Church of Vatican II for insight to respond to this call of God given through the political realities of India.

49 Mk 2:23-28; Mt 12:1-8; Lk 6:1-5. For other sabbatical pronouncements see Mk 3:1-6; Mt 12:9-14; Lk 6:6-11.
50 GS, article 26.
51 See the Preamble to the Constitution of India. In Kesavananda Bharati case, the
2.6.4. Human Dignity Calls for Liberating Dialogue

The Second Vatican Council opened the way of the Church’s service to the world in terms of dialogue. The purpose of the dialogue is to work together with all peoples of diverse faiths and ideologies to build a world order of human solidarity worthy to the honour of human dignity. Therefore, the Council exhorts Christians to discover through dialogue what is true and good in other religions and socio-cultural values of the nations, and learn to acknowledge, preserve and promote the spiritual, moral and socio-cultural ethos of the nations. Pope John Paul II repeatedly spoke about the need for dialogue and cooperation among believers in a world that is increasingly becoming interdependent. The purpose of the ministry of dialogue is to improve societies all over the world “on the solid ground of respect for each person’s inalienable dignity, equality, justice for all, tolerance and solidarity in human relations.”

This is an innovative approach that the Church of the Second Vatican Council has assumed for its mission in the world. It is conditioned by the contemporary world order, which has opted for religious and cultural pluralism and for national self-governments in various forms. Nevertheless, the Church is not a stranger to this new world order. The Church sees in these world movements the actions of God working in history through the Divine Spirit. Therefore, it has faithfully abandoned its previously held exclusive possession of the Kingdom of God within its walls; but sees it graciously spread out wherever people are, especially in those dense situations of life, where people commit themselves to the ethics of interhuman concerns. Accordingly, the Council defined the Church as a communion of the people of God on the way towards the Kingdom, led by the Spirit of Jesus.

Vatican II realised that the Church has a great mission to accomplish in this ever-changing world horizon. One of the primary aspects of its mission is to become a partner among people of all faiths and ideologies. The eclesial purpose is to discern in the light of the Gospel, the authentic actions of God in the happenings of history and enter into dialogue with people and to collaborate with them to further the cause of the Kingdom ideals. The world of political realities is one of the areas where the Church is expected to carry out this mission of dialogue in partnership with others in the pluralistic civil society. We refer here a relevant conciliar text:

[T]here is a growing awareness of the exalted dignity proper to the human person, since he stands above all things, and rights and duties are universal and inviolate. Therefore, these must be made available to all men everything necessary for leading a life truly human…

[S]ocial order requires constant improvement. It must be founded on truth, built on justice, and animated by love; in freedom it should grow every day towards more humane balance…God’s Spirit, who with a marvellous providence directs the unfolding of time and renews the face of the earth, is not absent from this development. The ferment of the gospel, too, has aroused and continues to arouse in man’s heart the irresistible requirements of his dignity.”

In the above passage Vatican II indicates God’s saving presence in the activities of the socio-political systems to make it humane to the requirements of human dignity. But God’s saving presence in the world at all times and everywhere is a liberating presence from all forms of enslavements and leading the people in freedom towards humanisation as seen in the kingdom values that Jesus preached. These are also reflected in the philosophy of humanistic secularism of the Indian Constitution as well as the Church’s teaching about constitutional State. Consequently, both are also committed to human dignity in the political community. These observations lead us to discuss about a possible liberating dialogue between the Church and

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53 Cf. ES, no 20; GS, articles 3, 21, 40, 91.
54 OT, article 16; AG, article 11; NA, article 2.
56 GS, articles 2, 3, 26; NA, article 2; DH, article 1.
57 LG, article 5.
58 LG, articles 8, 9, 14, 21; GS 1, 40, 45; AG, article 2.
59 GS, articles 11, 26, 44; DH, article 1, etc.
60 GS, article 26.
61 Ex, 3: 7-12; Dt, 23:15-16; Is, 1:16-17, 61:1-3; Amos 5:14-15; Lk, 4:16-21. etc.
the political community in defence of human dignity. For this purpose, we take examples from Indian experience to illustrate our point.

Looking at the Indian socio-political circumstances, the Indian theologian Felix Wilfred, who coined the concept “liberating dialogue,” suggests that in the Indian context liberating dialogue would be an appropriate way of responding to India’s socio-political need. He bases this process on a “humanizing and liberating ethic,” which leads towards a common project of humanisation in the civil society. He situates it in the context of India’s religiosity and the glaring fact of dehumanising forces at work in the society. However, religions also have a great liberative potential that could be galvanized to liberate people from poverty, caste discrimination, and communal conflicts. The forces of dehumanisation widespread in the society cannot be set-aside in the private realm of human existence, because these are the issues grievously affecting the interhuman relationship in the civil society. Therefore, such negative forces and institutions that promote them must be addressed in the public sphere by means of dialogue and collaboration with all people in the civil society.

As early as in the 1970s, the members of the National Integration Council of the Government of India have suggested similar views. In the context of emerging trends towards religious communalism and fundamentalism in the country and the need to work towards national integration, the National Integration Council suggested that interreligious dialogues in the country could focus on the constitutional values of human dignity. This would be compatible with the ethics of interhuman concerns found available in most religions. Likewise, in the early 1980s, the Catholic Church in India came to a similar sort of understanding. In a national seminar held in 1981, the final statement of the seminar suggested that in the struggle for a just society in India, the Church need “to join with all people of good will in promoting those values in society that Jesus commissioned the Church to announce.”

The preceding observations direct us to identify some significant political values and institutions which are commonly held imperative by the Indian polity as implied in the philosophy of humanistic secularism and by the Church as enunciated in the conciliar documents, Gaudium et Spes and Dignitatis Humanae. These political values and institutions are of interhuman concerns in intent in the civil society to promote a humane political order, which is the goal of Indian secularism, in view of advancing the welfare of all citizens centred on human dignity. This value commonality that engages the concerns of the Church and the State in India is also the call from the civil society to the Church in India for dialogue and collaboration to protect human dignity. In the proceeding sections we elaborate their political and theological importance in the pluralistic context of Indian political community. These can be approached as constructive pointers for dialogue and partnership in action between the Indian Church and the civil society to strengthen the values of humanistic secular ethos in the country.

2.6.4.1. The Call to Protect Dignity

The first significant value commonality that we come across between the political doctrine of the Church, which is centred on the theology of human dignity as expounded in Vatican II’s documents, Gaudium et Spes and Dignitatis Humanae, and the secular provisions of the Indian Constitution is the value of respect accorded to the dignity of the human persons in matters religious. One can see it in the Indian Constitution from the structural arrangement of the right to freedom of conscience and free exercise of religion as guaranteed in article 25, and the right to corporate freedom of religion as provided in article 26 as well as the right to freedom from religious instructions or worship as ensured under article 28.

According to article 25 of the Constitution of India, subject to public order, morality and health and other provisions of Part III of
the Constitution, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. The first juridical affirmation is that all persons are entitled to freedom of conscience and free exercise of religion. In matters religious, the foreigners residing in India are also protected under article 25 of the Constitution of India. A person’s place of birth or nationality is irrelevant for the entitlement of religious freedom, because the right to religious freedom is founded on the inherent worth and dignity of the human person as a moral subject.66

Secondly, by placing the right to freedom of conscience prior to that of religion, the article places the individuals above religion. The emphasis implied here is the affirmation of the priority accorded to human person in his or her dignity as a moral subject and, therefore, religion is placed by legislation in terms of human need according to one’s choice. Thirdly, the free exercise of religion is subject to certain necessary public need such as public order, morality and health and the fundamental rights as provided in Part III of the Constitution. The objective of these conditions pronounces in clear terms that the practice of religion cannot violate human dignity.67 All these conditional laws are protective of human dignity. Fourthly, the corporate right of every religious denomination or any section thereof as guaranteed in article 26 is for the furtherance of the right guaranteed in article 25, since respect for individual person equally applies respect in his or her social nature in the free exercise of religion in a free society.68

Article 28 of the Constitution of India deals with the question of attendance at religious instruction or religious worship in certain educational institutions. As seen elsewhere in our study, this article makes a distinction between educational institutions wholly maintained out of State funds and those recognized by the State or receiving aid out of State funds. The imparting of religious instruction is completely prohibited in the former but there is no prohibition against imparting religious instruction or conducting religious worship in the latter. It further stipulates that no person attending the latter category of educational institutions shall be required to take part in any religious instruction that may be imparted there or to attend any religious worship that may be conducted there, unless such person or his or her guardian has given consent to it.

Once again the emphasis in article 28 of the Indian Constitution is on the freedom of conscience. Therefore, respect for human persons in their dignity as moral subjects is the reason for religious freedom. Right to religious freedom, individual and corporate, is respected, because the philosophy of humanistic secularism of the Indian Constitution regards freedom of conscience and free exercise of religion are important human needs in so far as human persons in their dignity are moral subjects, and they are also social by nature.69 Hence, in matters religious, the relevant provisions of the Constitution of India attach twofold immunity from coercion to individuals and to religious communities.

These humanistic values of the Indian secularism consistently reverberate with Vatican II’s declaration on the right to religious freedom and constitutional State, which is founded on the theology of human dignity as expounded in Gaudium et Spes and Dignitatis Humanae. The relevant article of Dignitatis Humanae declares, “[A]ll men are to be immune from coercion… in such wise that in matters religious no one is to be forced to act in a manner contrary to his own beliefs.”70 It further means that subject to due limits, no one is to be restrained from acting in accordance with one’s own belief, whether privately, whether alone or in association with others. The right to religious freedom is founded on the very dignity of the human person, which is known through the “revealed Word of God and by reason itself.”71-Therefore, this right “is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil right,”72 because it is a right inalienable to human dignity. Therefore, the temporal power has no right to abrogate it.

67 See above chapter 3, section 1.3.3.5: “Religious Freedom in Consonance with Human Dignity”, pp. 189-191.
68 Upendra Baxi, op.cit., p. 67.
69 The framers of the Constitution were emphatic on this point. See above chapter 2, section 1.2.5.2: “The Constituent Assembly Debates on Secularism.” pp.123-130.
70 DH, article 2, para 1.
71 Ibid., para 2.
72 Ibid.
In its declaration on the corporate right to religious freedom, the conciliar document *Dignitatis Humanae* again declares, “[T]he social nature of man itself requires that he should give external expression to his internal acts of religion; that he should participate with others in matters religious; that he should profess his religion in community.” According to the teaching of the Church, it is the social nature of the human person, which lays a demand on the State to protect the corporate freedom of religion, since *Dignitatis Humanae* claims that “immunity from coercion in matters religious is the endowment of persons as individuals is also to be recognized as their right when they act in community.”

The Declaration *Dignitatis Humanae* further stresses, “Injury…is done to the human person and the very order established by God for human life,” if immunity is denied to religious communities. Therefore, the Church emphasises, provided the just requirements of the public order are observed, the State must respect the autonomy of the religious bodies that they may govern themselves according to their norms. The theological reason adduced for the immunity is the inviolable dignity of the human persons, which consists in the fact that they are created in the image of God, redeemed by Christ and destined for communion with God and to live in solidarity with others in the society.

As image of God, human persons are endowed with capacity for God, which means they are moral subjects. They are free and responsible to seek the truth and order their lives in responsible freedom according to their judgment of conscience. As God’s image, it is in the very nature of human persons to live in communion with God and to form variety of communities in the civil society. This communitarian nature is inherent in the fact of being human for the sole reason, as the document *Gaudium et Spes* states, that “God did not create man as a solitary…For by his innermost nature man is a social being and unless he relates himself to others he can neither live nor develop his potential.” Consequently, the free exercise of religion attains a societal or corporate dimension. For this reason, immunity from coercion in matters religious is protected in the personal and social spheres of human existence in the civil society under constitutional law.

This ethical doctrine of the Church on religious freedom, personal and corporate, which is grounded in the theology of the human dignity as propounded in the Pastoral Constitution *Gaudium et Spes*, completely agrees with the secular provisions of the Constitution of India dealing with religious freedom. Just as the Church’s ethical doctrine of religious freedom, the legal institution of religious freedom as guaranteed by the Constitution of India also provides twofold immunity in matters religious to individuals and corporate bodies. Although the Church’s teaching adds a transcendent value to religious freedom sourced by revelation, both the magisterial teaching of the Church and the Constitution of India ground it on the inherent worth and dignity of human person as moral subject. Recall the emphasis of the Constitution of India on the “freedom of conscience” in matters religious.

Hence, the secular provisions of the Indian Constitution and the Church’s teaching maintain that respect for human dignity is the criterion for providing immunity in matters religious. To respect people means not to violate their dignity as moral subjects. The violation of the right to religious freedom is a serious attack on the people causing “injury” to their inherent worth and dignity, since it prevents them to use their right to seek the truth and decide their destiny in responsible freedom. Violence against humanity is a crime that should be avoided. Seen theologically, it is an abuse of divine endowment because human dignity is a gift of God by creating human persons in God’s image.

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73 Ibid., article 3, para 5.
74 Ibid., article 4, para 1.
75 Ibid., article 3, para 5.
76 Ibid., para 5; article 4, para 2.
77 GS, article 12, para 5. See also GS, articles 24, 25.
78 DH, article 2, paras 1-3.
79 Articles 25 and 26 of the Constitution of India.
80 DH, article 2, para 2.
81 Article 25 (1) of the Constitution of India.
82 DH, article 3, para 5.
83 GS, articles 12, 19.
In the context of Indian political community, which has been constituted on the philosophical foundation of the humanistic secularism of the Constitution, the Christian faith heritage places a unique responsibility on the Indian Church for dialogue and collaboration with others in defence on matters related to human dignity in the civil society. This service of the Church to civil society need not be limited only to matters related to religious freedom - individual and corporate, but extends to all matters in the area of civil liberties. The extension of Church’s pastoral responsibility to civil society arises on account of the aim of the civil liberties. It is to secure human dignity by protecting people’s life and property against violence. The right to free exercise of religion is one of the civil liberties but an essential one. It is the cornerstone of the edifice of the civil liberties and rights; since it pertains to the order of liberty to seek the truth, to decide one’s destiny in life and to order one’s way of life in the civil society as a moral subject. Therefore, the right to religious freedom is a constitutive requirement to lead a life worthy of human dignity.

2.6.4.2. The Call to Affirm Pluralism

The second important value commonality between the teaching of the Church on human dignity and the constitutional order of the State in India is the value of pluralism in the political community. We have seen in the above section that the inalienable dignity of the people as moral subjects is the foundation of the right to religious freedom, which is known through revelation and by reason. It is also the invariable reason for the recognition of the plural character of the political community, because human dignity demands that people are to be free to seek the truth and organise their lives according to their perception of God and the good. Pluralism, especially religious pluralism, is one of the invaluable aspects of the Indian way of life. The reality of the Indian people is characterised by plural identities, namely religious, cultural, ethnic and linguistic.

The pluralistic ethos of the Indian people was an essential aspect of the freedom movement’s vision of Independent India. This was a secular national movement that fought against the British rule as well as the forces of the Hindu communalism and Islamic communalism, which were also prevalent at that time. The vision of the freedom struggle was for a strong and united Indian nation-state consisting of people belonging to plurality of community identities. Unity in diversity was its mantra. From the beginning, this vision has incorporated diversity, especially religious diversity, as an essential aspect of the rich national heritage. The philosophy of the humanistic secularism of the Indian Constitution has been largely shaped by the vision of the freedom struggle for Indian Independence to create a nation-state, which is pluralistic in character. The culture of pluralism is also an essential aspect of the ethics of interhuman concerns of the Kingdom values that Jesus proclaimed, because it is an affirmation to care for the other person as he or she is in his or her individuality.

The constitutional affirmation of the plural civil society is particularly seen in articles 29, 30 and 16 of the Constitution of India. Articles 29 and 30 confer several distinct rights to minorities. According to article 29 (1), any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own, shall have the right to conserve the same. According to clause (1) of article 30, all religious and linguistic minorities have the right to establish and administer educational institutions of their own choice. This does not prohibit the State prescribing regulations to ensure the academic excellence of the institutions. Clause (2) of article 30 protects minority educational institutions whether based on religion or language from State discrimination in granting aid.

Similarly, clause (4) of article 15 of the Constitution of India authorises the State to make special provisions for the advancement of socially and educationally backward classes of the citizens or
for the Scheduled Castes and Scheduled Tribes. Consequently, clause (4) of article 15 is an exception to clause (1) of the same article that prohibits discrimination on the grounds of religion, caste, sex, and place of birth or any of them. Likewise, Clause (4) of article 16 is an enabling provision conferring a discretionary power on the State for making any provision or reservation of appointments or posts in favour of any backward class of citizens, which in the opinion of the State, is not adequately represented in the service under the State.87

The matter for our consideration is that India as a secular State is a political community of plural communities. People in their multi-religious, multi-cultural, multi-ethnic and multi-linguistic identities constitute the subject of the political community under a secular constitution, which protects religious liberty, individual and corporate, as required by the inalienable worth and dignity of the people. The Indian society, under its secular political order, is a free society in which the multifarious kinds of people’s community identities are also protected from violence. The reason is that the humanistic vision of the Indian secularism is grounded in the dignity of the human persons as the Preamble of the Constitution of India assures to each individual the value of human dignity.88 Therefore, logic of the philosophy of humanistic secularism that Indian adopted avoids homogenisation of people in terms of religion or culture or in any form.89 On the contrary, it is intrinsic to the ethics of interhuman concerns which is ingrained in humanistic vision of the Indian secularism to recognise in the diversity of community identities the concretisation of the people’s individuality according to their respective beliefs and ways of life that deserve respect and protection worthy of human dignity.

88 The Constitution is committed to secure to all its citizens inter alia “FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation.” See Preamble of the Constitution of India.
89 This is the problem with religious nationalism, which began to emerge as one of the national movements spear headed by Hindu zealots against the secular nationalism headed by the Indian National Congress. During the past fifteen years or so, it has become a dominant political ideology under the auspices of Bharatiya Janata Party (BJP), a Hindu Nationalistic Political Party under the ideological banner of Hindutva and Hindu Nationalism. See above chapter 2, section 1.2.4.3: “Communal Nationalism”, pp. 108-115.
90 GS, article 12, para 5.
91 We have analysed the social nature of the human person from the Christian
their lives in responsible freedom in a variety of community specifications in a free society is also the sign of the Trinitarian mystery of God, which is one of unity in plurality, in whose image human persons are created.

The Pastoral Constitution *Gaudium et Spes* is emphatic on the vestige of the Trinitarian mystery inherent in the nature of human persons as relational subjects. It states:

God, who has fatherly concern for everyone, has willed that all men should constitute one family and treat one another in a spirit of brotherhood. For having been created in the image of God...all men are called to one and the same goal, namely, God Himself...

Indeed, the Lord Jesus, when He prayed to the father, “that all may be one...as we are one” (Jn. 17:21-22) opened up vistas closed to human reason. For He implied a certain likeness between the union of the divine persons, and in the union of God’s sons in truth and charity.92

The fact of multi-religious, multi-cultural, multi-ethnic and multi-linguistic pluralism is a substantive value heritage of the India as a nation-state.93 Christian faith tradition is not alien to authentic values of pluralism inherent in the philosophy of the humanistic secularism of the Indian Constitution, which is founded on the principles of relational anthropology. Christians are better informed by their faith perspective about the meaning of the political community founded on the conception of relational anthropology whose ethics is interhuman concerns. So, they are in a better position to offer their services for nurturing the pluralistic character of the Indian society.94

Their faith impels them with a mission to play an important role in collaboration with others in the civil society to bring peoples, cultures and religions into greater understanding and solidarity so as to strengthen the values and civil structures of pluralism in the country. This is a prerequisite for the functioning of the secular State in a land known for pluralism.

In a pluralistic civil society, to work for the values to respect pluralism as well as to create understanding among the diverse communities in terms of human solidarity is the new *avatar* of the praxis of the rich Christian virtue of charity. It is for the reason that true pluralism flourishes only when people learn to respect and appreciate the goodness of other persons and other communities, as God loves them in what they are. The Christian virtue of charity is the reflection of divine love for humankind, which is an act of affirmation of people in what they are. In the context of communal violence which is endemic in some parts of India, and especially in the context of communal nationalism spearheaded by the ideologues of Hindutva,95 working for unity in diversity is an important mission of the Indian Church to the civil society.

In recent times, it has become an important national concern to inculcate among people the values humanistic secular nationalism as against certain emerging trends towards communal nationalism. This ecclesial mission is to be accomplished not alone but in dialogue and collaboration with other similar organisations in the civil society.

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92 GS, article 24, paras 1, 3.
94 DH, articles 3 and 9.
since the Constitution of India declares that it is one of the fundamental duties of every citizen of India “to value and preserve the rich heritage of our composite culture.” It is a constitutional call arising from the philosophical vision of the humanistic secularism of the Indian Constitution. The Indian Church’s contribution in this nation building process is all the more important, because its theological vision of the human person, society and State demands it.

2.6.4.3. The Call to Defend Equality

The third value commonality between the Church’s political doctrine and the Constitution of India is the concept of egalitarian social order in a democratic State. The humanistic secularism of the Indian Constitution sourced by the ethics of human dignity would not be able to give shape to a secular political order in a free society unless the Indian society is egalitarian in its approach towards each individual person. It is because in a secular constitutional order of the State like that of India, each member of the nation-state is a free and responsible subject of the political community. Each individual member of the political community is in immediate relationship with the State with rights and duties, which are equally applicable to all members for the protection of their dignity against violation. India being predominantly a Hindu society, the age-old caste based hierarchical social order has been a stumbling block for the creation of an egalitarian social order. Caste system divides human community into high and low before the law. Implicit in the system is the concept of hierarchical anthropology according to which human persons in their essential nature are not equal by birth.

Since nineteenth century, great attempts were made by the reformers of the Indian Renaissance to change this nefarious system. Influenced by the egalitarian humanism of the Western liberal thought, the reformers infused values of egalitarian anthropology into Indian psyche. The framers of the Constitution of India also realised the importance of an egalitarian social order for the development of secular State. They adopted the spirit of the Indian Renaissance in the making of the Constitution of the modern India. Hence, they added the law of equality in the Preamble of the Constitution as an essential nation building value. Accordingly, the Sovereign Republic of India resolved to secure to all its citizens inter alia “EQUALITY of status and opportunity; and promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation.”

In pursuance of the above referred to the solemn resolve of the people of India as a nation-state, the Constitution guarantees to all its citizens equality before the law and the equal protection of the laws within the territory of India. As we have discussed it elsewhere, discrimination on the grounds of religion, race, caste, sex or place of birth is prohibited. The dreadful practice of untouchability is constitutionally outlawed. Consequently, the inherent worth and dignity of every person is respected constitutionally in the political community. Nevertheless, caste rigidity does continue in various forms and ways in many parts of India. A society is egalitarian and free only when the society treats all members with respect in their dignity as human persons. Religions in India have a great responsibility to cooperate with the legislative process of the State to achieve this constitutional objective.

In a number of cases related to the right to free exercise of

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96 Article 51-A (f) of the Constitution of India.
97 Preamble to the Constitution of India.
98 Article 14 of the Constitution of India.
99 Articles 15 Cls. (1) and (2); 16 Cls. (1) and (2); 29 Cl. (2) of the Constitution of India.
100 Article 17 of the Constitution of India.
101 Articles 14 to 18 of the Constitution of India contain various provisions regarding the right to equality. We have studied them in the light the Supreme Court rulings. See above chapter 3, section 1.3.8.2: “Abolition of Untouchability”, pp. 196-201 and section 1.3.9: “Egalitarian Society in Defence of Human dignity”, pp. 201-208.
102 This has been pointed out by the Supreme Court of India while delivering its judgement in a case challenging The Bombay Hindu Places of Public Worship (Entry Authorisation) Act, 1956 (Bombay Act 31 of 1956), which permitted to open the Hindu places of worship to all sections and classes of Hindus. See Shastri Yagnapurshadasji v Muldas Bhumardas Vaishya, AIR 1966 SC 1119, at 1135.
religion, the Supreme Court of India has reiterated the constitutional intention that the religious practices were subject to certain humanistic values of the Constitution which were meant to protect human dignity. We have studied some of the historic cases of this kind in chapter three.103 Recall also the constitutional provisions guaranteeing the right to the free exercise of religion. They are conditional rights in the sense that these are subject to public order, morality, health and other provisions of the fundamental rights guaranteed in Part III of the Constitution.104 These constitutional conditions protect human dignity in the practice of religion. Therefore, the free exercise of religion cannot contravene the egalitarian social order intended by the Constitution.

Egalitarian anthropology is an integral aspect of the Christian theological approach towards society and the political order. The conciliar document Dignitatis Humanae declares that acts of discrimination on the part of the State, which violates human dignity,105 is a “violation of the will of God and of the sacred rights of the person.”106 The concept of egalitarian anthropology is the basis for equalitarian society. The Pastoral Constitution Gaudium et Spes affirms in categorical terms:

Since all men possess a rational soul and are created in God’s likeness, since they have the same nature and origin, have been redeemed by Christ, and enjoy the same divine calling and destiny, the basic equality of all must receive increasingly greater recognition.

True, all men are not alike from the point of view of varying physical power and the diversity of intellectual and moral resources. Nevertheless, with respect to the fundamental rights of the person, every type of discrimination, whether social or cultural, whether based on sex, race, color, social

condition, language, or religion, is to be overcome and eradicated as contrary to God’s intent.107

Gaudium et Spes further stresses that the worth of a person does not consist in what one possesses but in what one is. The Christian approach to egalitarian anthropology is founded on the theology of creation and redemption. It is part of the Christian faith perception that every person is ontologically endowed with a dignity, which is totally unique, because every person is created in God’s image and redeemed by Christ. Therefore, every one is associated with the paschal mystery in a way known to God.108 The Pastoral Constitution Gaudium et Spes exclaims, “Such is the mystery of man, and it is a great one, as seen by believers in the light of Christian revelation.”109 This faith perspective constitutes a solid foundation to work for equalitarian social order in a free society.

Similar to the Church’s teaching on egalitarian political community, we also notice a strong sense of equalitarian value running through the pages of the Constitution of India. This needs attention for our purpose. Imbued by the philosophy of the humanistic secularism, which is centred on human dignity and intended for the humanisation of Indian society, the kind of egalitarian social order that the Constitution of India wishes to establish is not something static. Its objectives are positive and dynamic. As given in the Preamble of the Constitution of India,110 the State in India proclaims to secure to all its citizens inter alia equality of status and opportunity.

In this way, the State in India wishes to promote among all citizens fraternity (human solidarity) assuring the dignity of the individuals and the unity and integrity of the nation.111 Therefore, one of the political objectives of the State in India is to see that the

104 See articles 25 and 26 of the Constitution of India.
105 DH, article 6.
107 GS, article 29, paras 1 and 2.
109 GS, article 22, para 7.
111 See Preamble of the Constitution of India.
application of the constitutional provisions on equality helps to further the cause of fraternity among all citizens cutting across caste and creed. In other words, through the instrumentality of the egalitarian social order and its political organs, the Indian Constitution wishes to promote a sense of human solidarity that respects the dignity of each person. Surely, this is one of the most important revolutionary contributions of the philosophy of humanistic secularism, which is intended to usher in a social order based on egalitarian anthropology for the humanisation of the Indian society. As a result, the political community in India hopes to ensure a strong and united India built on the values of human solidarity, which is sourced by the value of inalienable worth and dignity of the human person.112

From the Christian faith point of view, the recognition of egalitarian social order based on the transcendent dignity of every human person has biblical roots. God is concerned with the human pain caused by the unequal treatment of the people in the society, their alienation from the mainstream political community and the non-recognition of the dignity of their humanity. These are the life-threatening situations of the people in the society. The Christian Scriptures point out that God comes in protection of the people in such situations.113 The prophetic narratives of the Hebrews remind us that the alienated masses of humanity, who are pushed to the margins of society, are the locations where the voice of God is heard.114 The focus of religion is not so much on the sacred cult and temples but towards the sacredness of human life in situations where human equality and dignity are denied.115

Likewise, privileging the marginalized is central to Jesus’ preaching of the kingdom of God. By his association with those 116

2.6.4.4. The Call to Nurture the Democratic Path

The fourth value commonality is the liberal democratic political order in an egalitarian society. The contemporary institution of liberal democracy is the logical development from the principles of modern political liberalism, which arose in the early nineteenth century. These may be summarised in two formulae: the extension of individual rights to all members of the political community, and the right of the people as an organic whole based on the idea of nation-state to govern themselves. The first one is the negative liberty of guarantism, given in terms of constitutional protection in that the individual’s activity shall not be interfered within its proper development in a political community. The second one is the positive liberty, which is the affirmation of the free people’s effective power to create their own State for self-government. Therefore, liberal democracy has universalised freedom on the premises of egalitarian anthropology and people’s right to govern themselves in their capacity as free and responsible persons worthy of human dignity.118

From the ethical point of view, liberal democracy is grounded on certain absolute values intrinsic to the nature of human person. According to Paul E. Sigmund, liberal democracy assumes that human person is a moral subject, one who is conscious, free and responsible person to respect the equal moral rights of other people according to his moral conscience.119

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in the political community. It also presumes that moral and social vision about the human person is necessary for political cooperation in a democracy. Furthermore, political philosophers, Nicholas Bunnin and E.P. Tsui-James, point out liberal democracy believes that political activity is itself something valuable through which people express themselves as relational and cooperative beings enjoying an interdependent existence by way of political participation as citizens in a free society. Liberal democracy advocates a political system of participation, community and republican citizenship.

Surely, there are significant points of value convergence between liberal democracy and contemporary Catholic political thought. This calls for explanation. Christian faith holds that created in God’s image, human persons are, first and foremost, persons before God; and for that reason they are capable of acting on God’s behalf and responsible to God. Consequently, a person’s rights and duties as a human person are inalienable and indivisible, since each person stands before God equal in dignity and with responsible freedom. The State has to respect this dignity, equality and responsibility of the people because their role as human persons is prior to the creation of the State or any human institution. Therefore, freedom of conscience and the constitutional laws securing the values of egalitarian anthropology are the necessary conditions for a democratic State. They complement each other. These values are the constitutive principles of the Indian Constitution, which is democratic and secular in its political order with civil liberties.

In a secular democratic State individuals and communities flourish in their identities only through the path of democracy. The institution of democracy offers the best possibility to people to participate in the political process through free choice, respecting their dignity as being human. The Pastoral Constitution *Gaudium et Spes* comments:

It is in full accord with human nature that juridical-political structure should, with ever better success and without any discrimination, afford all their citizens the chance to participate freely and actively in establishing the constitutional bases of a political community, governing the state, determining the scope and purpose of various institutions, and choosing leaders. Hence, let all citizens be mindful of their simultaneous right and duty to vote freely in the interest of advancing the common good.

John Paul II, who reiterated the importance of democratic and participatory political institutions, insisted that “free and responsible participation of all citizens in public affairs” and “respect for the promotion of human rights” are necessary conditions for authentic development of the people as a nation-state.

As we have discussed elsewhere, Since Vatican II, commitment to democracy and human rights has been added to the social teaching of the Church. Hence, this should be another area where the Indian Church in collaboration with the civil society can come forward to strengthen the institution of democracy in the country, which is both dear to the Christian approach to human person and political order as well as to the philosophy of the humanistic secularism of Indian Constitution.

### 2.6.4.5. The Call to Commit for Common Welfare

The fifth area of value commonality between the Church’s teaching on political community and the Constitution of India is the commitment for the common welfare of the society. From the theological point of view, the pursuit of common good is based on the theological anthropology sourced by the biblical insight of human person as image of God that underpins the dignity and social nature
of the people, their personal and social needs, and their rights and responsibilities as ordained by God.  

The Church’s teaching holds that the State is a natural institution willed by God. The Pastoral Constitution Gaudium et Spes offers a more systematic narrative about the natural theory of the State. It describes:

Man’s social nature makes it evident that the progress of the human person and the advance of society itself hinge on each other… [T]he subject and goal of all social institutions is and must be the human person, which for its part and by its very nature stands completely in need of social life. This social life is not something added on to man. Hence, through his dealings with others, through reciprocal duties, and through fraternal dialogue he develops all his gifts and is able to rise to his destiny.

Among the social ties which man needs for his development some, like the family and political community, relate with greater immediacy to his innermost nature.

The Church’s teaching on political community is based on the relational nature of human person as implied in the theological anthropology. Accordingly, Church’s teaching propounds that the institution of the political community owes its origin to the divine design. It is known through human nature. Therefore, the State is not only a natural institution but also a necessary one to care for the welfare of all citizens. Hence, the consistent affirmation of the Church’s teaching is that the purpose of the State is to care for the common good and public order. Certainly, this theological perspective is based on the ethics of interhuman concerns. Therefore, the social teaching of the Church insists on the responsible use of freedom to secure human dignity in the political community, which is a universal value desired by all people.

The Church’s political thought avoids individualism and collectivism. It sees political community in the light of the ethics of interhuman concerns. This is in keeping with the welfare of all as demanded by the social nature of human persons, which is an essential consequence of their creation in God’s image. It would become clear when we see it with an example. The Church’s position would consider that elimination of poverty ensures the dignity of the entire political community as well as protects the dignity of the underprivileged members of the same political community. Its basic political mantra is that the good of the individual person is bound up with the good of the community. What is good for the community is also good for the individual in so far as all members of the political community enjoy the political good, because we are truly a political community in solidarity with all other members of the same political community.

We cannot but acknowledge a strong sense of value commonality binding together the Church’s approach to welfare State and that of the Constitution of India. Founded on the philosophy of humanistic secularism and animated by the ethics of interhuman concerns, the Constitution of India holds that the purpose of the State is for the common good and public order to protect human dignity from violation by caring for the welfare of all. This is made clear in the Preamble of the Constitution of India that enshrines the solemn resolve of the people of India to secure to all its citizens “Justice, social, economic and political.”

India is a welfare state. We have studied in chapter three that religious beliefs and customs often contravene humane objectives of the social welfare and reform policies of the State. The framers of the Constitution have equipped the Constitution with saving provisions for the State to intervene in the matters of social welfare and reform with the aim of protecting as well as advancing the cause of human dignity. In this regard, when cases associated

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126 GS, article 26.  
127 Ibid., article 25, paras 1 and 2.  
128 RN, nn.28-29; QA, n.49; GS, article 74; DH, articles 5, 6.  
129 DH, article 2.  
130 GS, articles 25, 26; DH, article 8.  
132 The Preamble of the Constitution of India.

134 See articles 25 and 26 of the Constitution of India.
with the clash of interest between religious concerns and social welfare have been appealed for judicial decision, the Courts in India have generally decided in favour of social welfare and reform policies of the State.135

The purpose of the social welfare and reform measures of the State can be classified in three ways: The first purpose it is to create a social space freed from irrational forces where people can develop themselves and flourish in various aspects in accordance with human dignity. The second purpose is to defend human freedom against the forces of traditionalism and obscurantism that are contrary to authentic values of development and scientific temper.136 The third purpose is to usher in a humane social order based on humanistic ethics to protect human dignity affecting the individual and community lives of the citizens. This has been articulated under the Directive Principles of the State Policies of the Constitution.137 For this reason, the Indian Constitution contains many social welfare provisions.138 Most of these constitutional policies reflect the spirit and the objectives of the nineteenth century

135 Some cases of historic importance in this matter are the following: Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Tirtha Swamiar of Sri Shirur Mutt, AIR 1954 SC 282; Ratilal Panachand Gandhi v. State of Bombay, AIR 1954 SC 388; Mohammad Hanif Quareshi v. State of Bihar, AIR 1958 SC 731; Durgah Committee Ajmer v. Syed Hassain Ali, AIR 1961 SC 1402. We studied these cases in chapter three.

136 “It shall be the duty of every citizen of India - to develop the scientific temper, humanism and the spirit of inquiry and reform.” Article 51-A (h). This article is given in Part IV-A of the Constitution, which enumerates certain Fundamental Duties of every citizen of India.

137 For instance, one of the Directive Principles of the Constitution reads:“(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.” “(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.” Article 38 of the Constitution of India.138 Most of the provisions are given in Part IV of the Constitution, which contains Directive Principles of State Policy. See articles 36-51 of the Constitution of India.

humanistic reform movement of India.139 It was a prophetic movement for social and religious reform as well as for national awakening to create modern India as a sovereign nation-state - all centred on the value of inviolable dignity of every human person as moral subject and people’s corporate right to political freedom.

According to the Christian understanding, the prophetic movements are God’s saving interventions in human history, which is led by the Holy Spirit, sent by Christ from the Father, who is at work every where in the hearts of men and women of all ages to renew people, to reform society and to associate all with the paschal mystery of Christ.140 The Christian tradition is known for prophetic movements for social, religious and political reforms. God’s saving intervention through the prophets of the Old Testament was, at the same time, a call to restore the denied dignity to the enslaved people as well as a call for the restoration of a social order worthy of human dignity and solidarity.141 Similarly, Jesus’ proclamation of the Kingdom of God was also a proclamation to restore the dignity of the rejects of the society and to affirm their place in the blessing of God’s Kingdom as God’s children.142

The Church is commissioned to continue the mission of salvation and liberation inaugurated by Jesus. It is an adventure of God in history with people for God’s partners to renew and reform individuals and society according to God’s rule where the Kingdom values of freedom, fellowship and justice prevail for the flourishing of the people’s lives in dignity as God’s children.143 This implies that the constructive support of the Indian Church to the political process to further the cause of social welfare and reform policies of the State in India shall be a significant service to the nation. It shall be also a significant witness to the Gospel values in the political realities of India.

140 AG, article 4; GS, article 22; LG 16.
In this way, the Indian Church provides a relevant service to the nation by appreciating, upholding and fostering the constitutional values of the philosophy of humanistic secularism whose political objectives are for the humanisation of the society and the institutions in a way that a humane societal ambience may be created to facilitate human life flourishing. While upholding the autonomy and order proper to religion and the State, the service that the Indian Church can offer to political community consists preciously, by means of dialogue and collaboration with the civil society. The aim of Church’s service to civil society is none other than to promote the values of ethics of interhuman concerns that are enshrined in the secular Constitution of India. These are affirmative of the human dignity in various aspects of the national life.144

2.6.5. Human Dignity: the Basis of Dialogue with the Civil Society

In accordance with our research question, we have studied the centrality of the concept of human dignity in the philosophy of humanistic Indian secularism of the Indian Constitution. Similarly, we have researched through the Christian tradition to identify its centrality in the Christian thought. In a special way, the theological anthropology of Gaudium et Spes highlights human dignity and its significance to the Church’s teaching on religious freedom and constitutional State as given in the declaration Dignitatis Humanae. In our research finding, we have articulated the ethical values of interhuman concerns, which are common to the philosophy of Indian secularism and theological anthropology, precisely because both are based on relational anthropology. For that reason, we have shown the possible areas of dialogue and collaboration between the Indian Church and civil society in defence of human dignity. From all that we have studied and elaborated, we now point out, by way of summary, three reasons for choosing human dignity as the subject matter of dialogue and collaboration between the Indian Church and the political community.

144 GS, article 76; DH, article 13.

2.6.5.1. Based on the Conciliar Vision of Dialogue

The first reason is based on the Second Vatican Council’s affirmative stance towards the secular world and the path of dialogue set forth by the Council. This has led the Catholic Church into an era of dialogue and collaboration with the world community mainly on three levels, namely ecumenical dialogue, interreligious dialogue and dialogue with the secular world. With the promulgation of the conciliar documents Gaudium et Spes and Dignitatis Humanae, the Catholic Church has come forward to offer its services to the political community in terms of dialogue and collaboration to create a world order worthy of human dignity.

The common ground for such dialogue of universal dimension with peoples of all persuasions in the secular society is human dignity, human relationality and human activity in the world. Theology sees them as divine endowments for creating human beings in God’s image gifted with reason and freedom as well as inalienable rights and obligations to seek after the truth and to organise their lives in responsible freedom. Reiterating this point, Vatican II declares succinctly, “Everything we have said about the dignity of the human person, and about the human community and the profound meaning of human activity, lays the foundation for the relationship between the Church and the world, and provides the basis for dialogue between them.”145

The purpose of dialogue with the world of secular order, namely the political community, education and culture, etc., is to help people gain a deeper insight into their full destiny “so that they can fashion the world more to man’s surpassing dignity, search for a brotherhood which is universal and more deeply rooted.”146 Hence, fundamental values such as human dignity, liberty, equality, justice, solidarity, common good and public welfare are integral to the Christian theology of human person, society and State. These values are also the defining ideals of the contemporary civilizational legacy of liberal democracy, which extols human beings as free and responsible persons of the political community. Therefore, authentic

145 GS, article 40, para 1.
146 Ibid., article 91, para 1.
human values are correlated to Christian theological anthropology because both adhere to an ethics of interhuman concerns arising from relational anthropology.147

It is for this reason, the Second Vatican Council urges Christians to take their secular duties seriously, since these are constitutive of their vocation in life according to their manner of calling in the Church, which is divine and earthly in character. The Council insists, “concerning this task they must give a reckoning to Him who will judge every man on the last day.”148 Those who uphold the values of human freedom, equality, solidarity and justice, regard human dignity with high esteem. They also work for a social order respecting human dignity, as these are values of interhuman concerns dealing with people’s life in the society. Therefore, the Church in all its endeavours is called to promote human dignity in the secular society.149

The Church in its mission to the secular society labours with all people of good will to decipher the authentic signs of God’s presence and purpose in the happenings, needs and desires of the contemporary world.150 The Church on its part shares with the world “the light of Christ, the image of the unseen God”151 so as to recall to people the transcendent dignity of their vocation and to show its supremely human character.152 These insights of Vatican II substantiate our position that the concern for human dignity is an essential way of encountering the contemporary secular world order in so far as human dignity is a common universal value dear to people. It is the value with which God has endowed everyone, and longed for everyone, by creating him or her in God’s image.

2.6.5.2. Based on the Church’s Service to Political Community

The second reason is based on the Church’s pastoral responsibility to support the political institution of democracy, religious freedom and human rights in the pluralistic society with the objective of protecting human dignity.153 The Pastoral Constitution Gaudium et Spes holds that the Church has a pastoral responsibility to the political community because it is concerned with the transcendent dignity of the human persons as image of God. Therefore, while speaking about the role of the Church in the political community the Council clarifies the position of the Church and declares, “The role and competence of the Church being what it is, she must in no way be confused with the political community, nor bound to any political system. For, she is at once a sign and a safeguard of the transcendence of the human person.”154

The Church and the political community are distinct and autonomous in their proper sphere of activity, but both serve people in their personal and social calling in life. Therefore, human nature requires that both institutions function harmoniously in the society because religion and State exist for the good of the human person who is a believer and a citizen at the same time. Regarding this the Council further states:

In their proper spheres, the political community and the Church are mutually independent and self-governing. Yet, by a different title, each serves the personal and social vocation of the same human beings. This service can be more effectively rendered for the good of all, if each works better for wholesome mutual cooperation, depending on the circumstances of time and place. For man is not restricted to the temporal sphere. While living in history he fully maintains his eternal vocation.155

The Church carries out its pastoral responsibility to safeguard the transcendent dignity of human person by promoting the institutions of democracy, civil rights, especially religious freedom, justice, human solidarity, peace and harmony in the society, and principles of political responsibility of the citizens, etc.156
It is also a demand of the Gospel of Christ laid upon the Church to proclaim the freedom of the children of God and to repudiate all forms of bondage that ultimately results from sin. The Church values the sacredness of the conscience, and advises that the human talents are to be employed for the service of God by serving human persons created in God’s image. These are substantive values that safeguard human dignity from violation. The Indian Church would fulfil its religiously grounded ministry to the political community in defence of human person not alone but in collaboration and dialogue with the civil society, since it is also the constitutional duty of every citizen to uphold and promote these constitutional values in the civil society.

2.6.5.3. Based on the Centrality of Human Dignity

The third reason arises from the manner in which human dignity is viewed in the philosophy of the humanistic secularism of the Indian Constitution and in the Church’s teaching on religious freedom and the constitutional State. Human dignity is central to the Church’s teaching, which is sourced by imago Dei doctrine. It is also central to the Constitution of India in its secular approach to human person, religion and society. Both institutions (the Church and the State in India) also accord high priority not to violate human dignity or to marginalize any sections of the people in the political community, but remain resolved to protect the inviolable worth and dignity of all as moral subject. The reason for this value commonality between the Church and the State in India is that the philosophy of humanistic secularism of Indian Constitution and theological anthropology are based on relational anthropological approach towards human person.

According to relational anthropology, dignity and relationality are fundamentally interrelated values. Therefore, the human rights, which protect human dignity, are adjudicated not in an individualistic sense - as if the political community consists of a collection of monadic individuals, but in a relational context of human solidarity that forms the society. In this case, Social justice balances human rights because relational anthropology displays an ethics of interhuman concerns. It is concerned with care for all, beginning with the least in the society. This involves an obligation to promote social welfare and the common good. The ethics of interhuman concerns is also inclusive and pluralistic in approach. It is intended to promote a humane social order against the forces of homogenisation, marginalization and dehumanisation.

This common perspective of the Church and the State in India towards human dignity becomes clear when we see how the Indian secularism understands the principle of separation between State and religion. As we have argued out elsewhere, the State keeps a “principled distance” from religion or from any sections of people in the political community. It means that the State regulates the interests of the individuals and various sections of people so that all may live in dignity with justice. As a political value, the ethics of interhuman concerns operates through the idea of principled distance that the State maintains from all people. On account of the ethics of interhuman concerns that directs the operation of the secular provisions, the Constitution reflects the Kingdom ideals that Jesus proclaimed.

The Constitution of India enshrines the noble longings and hopes of the nation on its march towards a humane social order. Seen theologically, God’s Word and the Spirit are at work in these expectations of the nation, because these are the nation’s ennobling desires towards a better human future for all informed by the ethics of interhuman concerns. Hence, when the Indian Church enters into dialogue and collaboration with the civil society to protect and promote these substantive values of human dignity as enshrined in the constitutional provisions, it is entering into a sphere where grace is already at work, in so far as it is effectively influenced by Christ’s saving action.
These observations provide us with reason to claim that the dialogue and collaboration, which the Church wishes to have with the civil society, takes place between the Gospel values and the same values embedded in the politico-ethical order and operating through the secular constitutional provisions and institutions in the nation’s political life to the extent that these constitutional values and institutions reflect the ethics of interhuman concerns. Consequently, the Church’s social ministry to civil society becomes part of its ecclesial mission, that is, evangelisation in the secular society in defence of human dignity.¹⁶⁴

These essential similarities of thought inherent in the Christian concept of human dignity and that of the Indian Constitution is the reason for the value commonality found remarkably between both institutions and their respective systems of thought. Some of them are respect for human person and human rights, affirmation of pluralism and egalitarian anthropology, institution of democracy and constitutional order of the State, maintenance of common good and public welfare, preservation of autonomy as well as harmony between religion and the State.

On the one hand these are truly secular values and institutions necessary for a secular State, which is affirmative of human dignity, but on the other, these are also the values with deep spiritual content because they respond to the holistic need (spiritual and temporal) of the people in their transcendent dignity as persons. They are truly the Gospel values and authentically human values on account of their commitment to interhuman concerns.¹⁶⁵ These are also the indispensable principles of governance to promote and nurture a humanistic secular order in the Indian political community. Therefore, they turn out to be constructive pointers for dialogue and collaboration between the Indian Church and the civil society to strengthen the secular ethos of the country as intended by the framers of the Constitution, but equally resonating with the demands of the transcendent dignity of the people as God’s children created in God’s image and redeemed by Christ.

¹⁶⁴ GS, article 76, DH, article 13.
¹⁶⁵ GS, articles 3, 11.
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Appendix

THE SECULAR PROVISIONS OF THE
CONSTITUTION OF INDIA

I. Freedom of Religion

Individual freedom of religion

Article 25 (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law -

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I. - The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II. - In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Collective freedom of religion

Article 26 Subject to public order, morality and health, every religious denomination or any section thereof shall have the right -

(a) to establish and maintain institutions for religious and charitable purposes;
(b) to manage its own affairs in matters of religion;
(c) to own and acquire movable and immovable property; and
(d) to administer such property in accordance with law.

Article 30 (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

II. Citizenship

No state discrimination on grounds of religion

Article 15 (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled Castes and the Scheduled Tribes.]¹

Equality of opportunity in matters of public employment

Article 16 (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion

¹ Added by the Constitution (First Amendment) Act, 1951, sec. 2.
of the State, is not adequately represented in the services under the State.

(4-A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the States, are not adequately represented in the services under the State. 2

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular religious denomination.

**No discrimination in educational institutions**

Article 29 (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

**No communal electorates**

Article 325 There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

Article 330 (1) Seats shall be reserved in the House of the People for - the Scheduled Castes;
[(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous district of Assam] 3

III. **Separation of State and Religion**

**No special taxes for promotion of religion**

Article 27 No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

6[Article 290A A sum of forty-six lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of Kerala every year to the Travancore Devaswom Fund; and a sum of thirteen lakhs and fifty thousand rupees shall be charged on, and paid out of, the Consolidated Fund of the State of [Tamil Nadu]’ every year to the Devaswom Fund established in that state for the maintenance of Hindu temples and shrines in the territories transferred to that state on the first day of November, 1956, from the state of Travancore-Cochin.]

**No religious instruction in State educational institutions**

Article 28 (1) No religious instruction shall be provided in any institution wholly maintained out of state funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the state but has been established

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2 Inserted by the Constitution (Seventy-seventh Amendment) Act, 1995, sec. 2.
3 Substituted by the Constitution (Fifty-first Amendment) Act, 1984, sec.2.
4 Article 330 (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, [except the Scheduled Tribes in the autonomous districts of Assam], 4 in the Legislative Assembly of every state [*[*]]

5 The words and letters “specified in Part A or Part B of the First Schedule” omitted by the Constitution (Seventh Amendment) Act, 1956, sec. 29 and Schedule.
6 Inserted by the Constitution (Seventh Amendment) Act, 1956, sec.19.
7 Substituted by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), sec. 4, for “Madras”.

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under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognized by the state or receiving aid out of state funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Summary in Dutch

Nederlandse samenvatting

Menselijke waardigheid
in het Indiase secularisme en in het Christendom
(het Christendom in dialoog met het Indiase secularisme)

Dit onderzoek is uitgevoerd in de context van India’s politieke secularisme, dat tegenwoordig onder druk staat. De Indiase versie van het secularisme - samengevat in de formulering “evenveel respect voor alle godsdiensten” (sarva dharma samabhava), is van fundamenteel belang voor de politieke filosofie van het moderne India als een autonome natiestaat. De eenheid en samenhang van het land vragen nu om een versterking van de seculiere democratische fundering van zijn constitutie en zijn politieke instellingen.

In de afgelopen drie decennia is de verzuiling van het staatsbestel en de samenleving in India, bewerkstelligd door voorstanders van Hindutva - een religieus-nationalistische ideologie met fascistische trekken, een bedreiging geworden voor de hele idee van natie en burgerschap. Dit heeft geleid tot een zeker gevoel van nationale urgentie om een seculier nationaal platform te vormen dat de krachten van het sektarische nationalisme kan weerstaan en waarborgen kan bieden voor een staatsbestel in overeenstemming met de seculiere democratische doelstellingen van de constitutie, die de multiculturaliteit van India garandeert.

Christenen in India hebben hun solidariteit betuigd met hun
medeburgers die zich wijden aan de constitutionele waarden en de doelstellingen van het secularisme. In deze context heeft de hoogste instantie van de Katholieke kerk in India, de Indiase bisschoppenconferentie (CBCI, Catholic Bishops’ Conference of India) de historische beslissing genomen het Indiase secularisme te steunen. De Kerk heeft deze stap genomen als onderdeel van haar sociale dienst aan de burgerlijke samenleving, vanuit haar pastorale verantwoordelijkheid, en is bereid haar pastorale middelen, met name catechese, pastorale brieven, en organisaties op het gebied van onderwijs, gezondheid en sociale dienstverlening, in te zetten om de ware geest en strekking van het secularisme zoals vastgelegd in de constitutie van India, te verbreiden en ingang te doen vinden.

De context van de studie zoals hierboven beschreven stelt een theologische vraag, die centraal staat in het onderhavige onderzoeksproject, en de pogen deze te beantwoorden vormt de inhoud van dit proefschrift. De vraag luidt: waarom moet de Indiase Kerk de Indiase vorm van secularisme ondersteunen die vervat ligt in de Indiase constitutie? Bij de beantwoording van deze vraag worden de volgende principes aangehouden. De *raison d’être* voor de ondersteuning door de Kerk moet belichaamd worden in de seculiere bepalingen van de Indiase constitutie en moet tegelijkertijd ook in overeenstemming zijn met het Christelijke geloofsperspectief op de menselijke persoon, de politieke gemeenschap en religieuze vrijheid.

Als antwoord op de onderzoeks vraag stelt het proefschrift voor dat respect voor de menselijke waardigheid de uiteindelijke reden is waarom de Indiase Kerk het Indiase secularisme zoals vervat in de seculiere bepalingen van de constitutie moet ondersteunen. De menselijke waardigheid staat centraal in het Indiase secularisme en in de Christelijke theologie van de menselijke persoon, de staat en de religieuze vrijheid, omdat beide hoge prioriteit verlenen aan het voorkomen van schendingen van de menselijke waardigheid.

De waardigheid van de menselijke persoon als moreel subject staat centraal in de seculiere bepalingen van de Indiase constitutie en in de daarmee samenhangende bepalingen rond respect voor diversiteit in de burgerlijke samenleving. Bij het respecteren van diversiteit, vooral religieuze diversiteit, hoort een staatsbestel dat schendingen verhindert van de onvervreemdbare waarde en waardigheid van de menselijke persoon. Deze moet als vrij en verantwoordelijk subject kunnen zoeken naar waarheid en zo een eigen manier van leven in kunnen richten in de burgerlijke samenleving. Parallel hiermee hebben mensen volgens de Christelijke theologie de capaciteit om naar waarheid te zoeken en hun leven te leiden in verantwoordelijke vrijheid, omdat zij gemaakt zijn als beeld van God en verlost zijn door Christus, voor gemeenschap met God. Daarom zijn allen begiftigd met onschendbare waardigheid en onvervreemdbare rechten. Staat en samenleving moeten deze waarden respecteren, omdat zij betrekking hebben op mensen, gemaakt naar het beeld van God.

Daarom heeft dit proefschrift in de context van dit onderzoeksproject een dubbele doelstelling, namelijk (1) een systematische studie te presenteren van de centrale plaats van menselijke waardigheid enerzijds in de filosofie van het Indiase secularisme en anderzijds in de Christelijke theologie van de menselijke persoon, de constitutionele staat en de religieuze vrijheid; en (2) de identificatie van gedeelde waarden die inherent zijn aan beide denksystemen, ter bevordering van een dialoog.

Het is opmerkenswaard dat de Indiase versie van het secularisme gevormd is door inzichten die zijn overgenomen uit westere en Indiase tradities. De principes met betrekking tot een
democratisch staatsbestel, fundamentele rechten, egalitair sociale orde en scheiding tussen staat en religie zijn ontleend aan de westerse politieke traditie en vooral aan de constitutie van de Verenigde Staten van Amerika. Het principe van gelijk respect en gelijke bescherming voor alle religies is gefundeerd op India's eeuwenoude ethos van religieus pluralisme. Het principe van sociale en religieuze hervorming ter bescherming van de menselijke waardigheid is de constitutionele bevestiging van de humanistische erfenis van de Indiase Renaissance (1965-1981).

Hoofdstuk een presenteert daarom een geperiodiseerde studie van de ontwikkeling van de seculiere staat in de westerse traditie. Het begint met de Kerk in het Romeinse Rijk en eindigt met de constitutie van de Verenigde Staten van Amerika, die voor de eerste keer in de politieke geschiedenis religieuze vrijheid wettelijk vastlegde in de juridische orde van de constitutionele staat.

Hoofdstuk twee presenteert een overzicht van de Indiase politieke geschiedenis, vanaf de oudste politieke geschiedenis tot de totstandkoming van de constitutie van het moderne India. Dit hoofdstuk schenkt speciale aandacht aan enkele belangrijke politieke ontwikkelingen en ideeën die de cultuur van religieuze diversiteit en verdraagzaamheid gevormd hebben, en de Indiase nationale onafhankelijkheidsbeweging die zich liet leiden door de idee van seculier nationalisme.

De resultaten van deze bevindingen, geplaatst in een historisch perspectief, leveren drie feiten op: (1) Secularisme als politieke doctrine ontstond in de westerse en Indiase tradities in een religieus pluralistische samenleving ter beheersing van religieuze conflicten en om religieuze vrijheid wettelijk vast te kunnen leggen als een burgerlijk recht. (2) Het droeg bij aan de creatie van de constitutionele staat gebaseerd op burgerlijke vrijheiden, een egalitair sociale orde en het primaat van de wet (rule of law). Dit zijn essentiële politieke waarden en instituties ter bescherming van de menselijke waardigheid. (3) De eeuwenoude cultuur van religieus pluralisme van India, de vele schakelingen van zijn beschavingsethos en de afwezigheid van conflicten tussen religie en staat in de annalen van zijn politieke geschiedenis droegen bij aan de integratie van de westerse liberale democratische waarden en instituties in zijn oude beschavingserfenis. Secularisme zoals aanvaard door de opstellers van de Indiase constitutie staat in positieve zin voor religieus pluralisme, en in een breder perspectief voor respect voor de diversiteit in de politieke gemeenschap. Negatief bezien gaat het om het perspectief van een niet-sektarische staat.

Hoofdstuk drie behandelt de seculiere bepalingen van de Indiase constitutie en aanverwante wetsartikelen zoals deze geïnterpreteerd zijn door de Indiase rechterlijke macht. Op basis van verschillende vonnissen van het Indiase Hooggerechtshof argumenteert het proefschrift dat de opstellers van de constitutie een seculier staatsbestel voor ogen stond, dat alle religies gelijkelijk bescherming biedt, maar dat de staat een "principiële distantie" in acht neemt ten opzichte van alle religies, ter verdediging van de menselijke waardigheid. Het proefschrift wijst er verder op dat religieuze vrijheid worde aan er een constitutioneel raamwerk van essentiële humane waarden en instituties als een egalitair sociale orde. Een dergelijke sociale orde moet doordrongen van de principes van de verzorgingsstaat, publieke orde, moraliteit en gezondheid, omdat deze de menselijke waardigheid veiligstellen in de burgerlijke samenleving.

In het licht van de bevindingen van het onderzoek in deel een definitie het proefschrift de Indiase versie van secularisme als "humanistisch secularisme", omdat de idee van "principiële distantie" van religie daarin in feite bepaald wordt door humanistische waarden ter verdediging van de onvervreemdbare waarde en waardigheid van de menselijke persoon als moreel subject. Dit komt tot uiting in iemands persoonlijke identiteit en in de gemeenschap van mensen in hun onderscheiden gemeenschapsidentiteiten in de pluralistische samenleving. Daarom ziet de constitutie menselijke waardigheid als inbegrepen in de sociale natuur van de persoon.

Deel een besluit met de stelling dat het leitmotif van de humanistisch secularistische filosofie van de Indiase constitutie is een waardig leven te garanderen voor alle burgers. Dit is het vaste
voornemen van de inwoners van India, vanuit hun hoop en verlangen om van India een seculiere democratische soevereine republiek te maken. Dit is in de context van de Indiase politieke gemeenschap een belangrijke bron voor theologiseren over de menselijke waardigheid in het licht van de theologische antropologie zoals die is ontwikkeld in de Christelijke traditie. Dit is onze taak in deel twee van het proefschrift.

Deel twee presenteert een uitgebreide theologische studie van het Christelijke concept van menselijke waardigheid vanaf de bijbelse bronnen tot en met de systematische ontwikkeling in de documenten van Vaticanum II. Het doel van dit deel van het proefschrift is om de filosofie van het humanistisch secularisme te interpreteren in het licht van de theologische antropologie, omdat beide gericht zijn op menselijke waardigheid.

Hoofdstuk vier bestudeert daarom de ontwikkeling van het concept menselijke waardigheid in de theologische antropologie op basis van de *imago Dei*-doctrine, zoals die voorkomt in de bijbel, de klassieke theologie en de sociale encyclieken van de pausen. Het proefschrift legt de nadruk op het steeds grotere belang van menselijke waardigheid in de Christelijke benadering van samenleving, staat, mensenrechten enzovoort, zoals uiteengezet in de moderne pauselijke encyclieken.

Hoofdstuk vijf verkent de theologie van menselijke waardigheid zoals uiteengezet in de documenten van het Tweede Vaticaans Concilie, *Gaudium et Spes* en de toepassing met betrekking tot religieuze vrijheid en de constitutionele staat in *Dignitatis Humanae*. Het proefschrift benadert deze documenten in de context van de openheid van de Kerk met betrekking tot de politieke orde en haar bereidheid tot dialoog en samenwerking met mensen van alle overtuigingen in de burgerlijke samenleving ter verdediging van de menselijke waardigheid.

Hoofdstuk zes besluit het onderzoeksproject. In de eerste plaats verzamelt het proefschrift in dit hoofdstuk de belangrijkste kenmerken van de filosofie van het humanistische secularisme en van de theologie van de menselijke persoon, de constitutionele staat en de religieuze vrijheid zoals weergegeven in *Gaudium et Spes* en *Dignitatis Humanae*. Ten tweede wijst het op een onderliggende “gemeenschappelijke antropologische benadering” in beide denksystemen. Het proefschrift definieert deze gemeenschappelijke antropologische benadering als “relatieve antropologie”, en vraagt aandacht voor de ethiek die verworteld is in de relationele antropologie. Het proefschrift definieert deze als een ethiek van “intermenselijke betrokkenheid”, omdat het een ethiek is van zorg voor de ander.

Het proefschrift argumenteert dat de ethiek van intermenselijke betrokkenheid de ethiek is van de koninkrijkswaarden van Jezus, zoals verkondigd in de zaligsprekingen. Daarom brengt het proefschrift de humanistische waarden van het Indiase secularisme in verband met de koninkrijkswaarden en suggereert dat Gods Woord en Geest niet afwezig zijn in de politieke aspiraties van het Indiase volk en de Indiase staat. Daarom besluit het proefschrift met de stelling dat menselijke waardigheid een belangrijke basis kan zijn voor dialoog en samenwerking tussen de Indiase Kerk en de Indiase burgerlijke samenleving, ter verdediging van constitutionele grondwaarden en instituties ter verdediging van de menselijke waardigheid.
Summary in English

Human Dignity in Indian Secularism and in Christianity
(Christianity in Dialogue with Indian Secularism)

The present research is carried out in the context of India’s political secularism, which is under stress. The Indian version of secularism - popularly known as equal respect for all religions (sarva dharma samabhava), is fundamental to the political philosophy of modern India as a self-governing nation-state. The very unity and integrity of the country depends on strengthening the secular democratic underpinnings of the nation’s Constitution and its political institutions.

During the past three decades, the communalisation of Indian polity and society engineered by the proponents of Hindutva - a Hindu communal nationalist ideology of a fascist type, has assumed menacing proportions challenging the very idea of citizenship and nationhood. This has created a certain sense of national urgency among people to align on secular nationalist platform to oppose the forces of communal nationalism and ensure a polity appropriate to the secular democratic objectives of the Constitution that secures India’s composite culture.

Christians in India have expressed their solidarity with their fellow citizens, who are committed to the constitutional values and objectives of secularism. In this context, the Catholic Church in India through its apex body, the Catholic Bishops’ Conference of India (CBCI), has taken a historic decision in support of Indian secularism. The Church has taken this step as part of its social ministry to civil society arising from its pastoral responsibility, and willing to extend the pastoral means, namely catechesis, pastoral letters, educational, health and social service organizations to impart and inculcate among people the true spirit and tenor of secularism as enshrined in the Constitution of India.

The context of the study as described above, posits a theological question, which is central to the present research project, and the attempt to answer it constitutes the matter of this thesis. The question is: why should the Indian Church support the Indian form of secularism enshrined in the Indian Constitution? While responding to this question, the thesis is attentive to the following principles.

The raison d'être for Church’s support must be embodied in the secular provisions of the Indian Constitution and, at the same time, it must also resonate with Christian faith perspective on human person, political community and religious freedom.

In answer to the research question, the thesis proposes that respect for human dignity constitutes the ultimate reason for the Indian Church to support the Indian secularism as enshrined in the secular provisions of the Constitution. Human dignity is central to Indian secularism and to Christian theology of human person, State and religious freedom, because both accord high priority to prevent violation of human dignity.

The dignity of the human person as moral subject is central to Indian Constitution’s secular previsions and its allied articles that respect diversity in the civil society. To respect diversity, especially religious diversity, is to provide with a polity that prevents the evil of violating the inalienable worth and dignity of the human person as free and responsible subject to seek after the truth and so to organise one’s way of life in the civil society. Similarly, according to Christian theology, since all persons are created in God’s image and redeemed by Christ for blessed communion with God, they are endowed with capacity to seek after the truth and to order their lives in responsible freedom. Therefore, all are endowed with inviolable dignity and inalienable rights. Society and State must
respect these values because people created in God’s image are the subject of these institutions.

Hence, in response to the context of this research project, the thesis has two objectives, namely (1) to present a systematic study of the centrality of human dignity in the philosophy of Indian secularism and in the Christian theology of human person, constitutional State and religious freedom; and (2) to identify some value commonality arising from both systems of thought - all centred on human dignity. Consequently, the thesis proposes human dignity as a significant basis for dialogue and collaboration between the Indian Church and the political community to promote the secular ethos of the Constitution. Keeping this in view, the research findings are arranged in two parts, each having three chapters. Part one deals with political history and constitutional law. Part two studies Christian theology of human person and temporal order, and identifies value commonality inherent in both systems of thought for dialogue.

It is to be noted that the Indian version of secularism has been shaped by insights assimilated from Western and Indian traditions. The principles of democratic polity, fundamental rights, egalitarian social order and separation between State and religion have been drawn from the experience of Western liberal political tradition, especially from the Constitution of United States of America. The principle of equal respect and protection for all religions is founded on India’s age-old ethos of religious pluralism. The principle of social and religious reform to secure human dignity has been the constitutional affirmation of the humanistic legacy of Indian Renaissance.

Hence, chapter one presents a periodized study about the development of secular State in the Western tradition. It begins with the Church in the Roman Empire and culminates with the Constitution of the United States of America, which established, for the first time in the political history, religious freedom as a legal institution in the juridical order of the constitutional State.

Similarly, chapter two presents a survey of the Indian political history beginning from the ancient political history and ending with the making of the Constitution of modern India. The chapter pays special attention to some important political developments and ideas that shaped the culture of religious diversity and tolerance, and Indian national movement for independence led by the idea of secular nationalism.

The results of these findings, from a historical perspective, points out three facts: (1) Secularism as a political doctrine arose in the Western and Indian traditions in a religiously plural society to manage religious conflicts and to legislate religious freedom as a civil right. (2) It was instrumental to create the institution of constitutional State based on civil liberties, egalitarian social order and rule of law. These are essential political values and institutions to protect human dignity. (3) India’s age-old culture of religious pluralism, its composite civilizational ethos and the absence of religion-state conflict in the annals of its political history were instrumental to integrate the Western liberal democratic values and institutions with its ancient civilizational legacy. Secularism adopted by the framers of the Constitution of India positively means religious pluralism, which, in a broader perspective, implies respect for diversity in the political community. It is negatively construed as a non-communal State.

Chapter three deals with the secular provisions of the Indian Constitution and allied articles as interpreted by the Indian judiciary. Based on several historic decisions of the Supreme Court, the thesis argues that the framers of the Constitution intended a form of secular polity, which guarantees to all religions equal protection but the State maintains a “principled distance” from all in defence of human dignity. The thesis further points out that religious freedom is subject to a constitutional framework of substantive humane values and institutions like egalitarian social order imbued by the principles of welfare State, public order, morality and health since they secure human dignity in the civil society.

In the light of the research findings in part one, the thesis defines the Indian version of secularism as “Humanistic Secularism,” because its idea of “principled distance” from religion is basically
conditioned by certain humanistic values in defence of the inalienable worth and dignity of the human person as a moral subject in one’s personal identity and the community of persons in their distinct community identities in the pluralistic society. Therefore, the Constitution sees Human dignity inclusively together with the social nature of the person.

Part one concludes with the proposition that the *leitmotif* of the philosophy of humanistic secularism of the Indian Constitution is to secure a dignified life for all citizens. This is the solemn resolve of the people of India, their hope and longing for constituting India a Secular Democratic Sovereign Republic. In the context of Indian political community, it is a significant source for theologising on human dignity in the light of theological anthropology as developed in the Christian tradition. This would be our task in part two of the thesis.

Part two presents an extensive theological study of the Christian concept of human dignity beginning with biblical sources and its systematic development in the documents of Vatican II. The aim of this part of the thesis is to interpret the philosophy of the humanistic secularism in the light of theological anthropology since both are centred on human dignity.

In pursuance of our research objective, chapter four studies the development of the concept of human dignity in the theological anthropology based on *imago Dei* doctrine as seen in the Bible, the classical theology and the social encyclicals of the Popes. The thesis highlights the progressive importance of human dignity in the Christian approach to temporal order, namely society, State and human rights, etc., as expounded in the contemporary encyclicals of the Popes.

Chapter five explores the theology of human dignity as expounded in the documents of the Second Vatican Council, *Gaudium et Spes* and its application to religious freedom and constitutional State as given in *Dignitatis Humanae*. The thesis approaches these documents in the context of the Church’s openness towards political order and its readiness to enter into dialogue and collaboration with people of all persuasions in the civil society to secure human dignity.

Chapter six concludes the research project. First of all, in this chapter, the thesis collates the salient features emerging from the philosophy of humanistic secularism and from the theology of human person, constitutional State and religious freedom as given in *Gaudium et Spes* and *Dignitatis Humanae*. Secondly, it points out a “common anthropological approach” underlying in both systems of thought. The thesis defines this common anthropological approach as “relational anthropology,” and draws attention to the ethics ingrained in relational anthropology. The thesis defines it as an ethics of “interhuman concerns,” because it is an ethics that cares for others.

The thesis argues out that the ethics of interhuman concerns is the ethics of the Kingdom values of Jesus. Therefore, the thesis relates the humanistic values of the Indian secularism with the Kingdom values and suggests that God’s Word and Spirit are not absent in the political aspirations of the people of India as a nation-state. Consequently, the thesis concludes by proposing that human dignity can be a relevant basis for dialogue and collaboration between Indian Church and civil society in defence of substantive constitutional values and institutions that protect human dignity.
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Curriculum Vitae

John Romus Devasahayam was born in 1949 at Kottavilai in the southernmost district of India. He was ordained priest in 1979 and belongs to the diocese of Raiganj, W. Bengal. He is a professor of Systematic Theology and Philosophy at Morning Star College, Barrackpore, Kolkata.

He had primary and secondary education and minor seminary training in his home district, Kanyakumari, Tamil Nadu. In 1970-73, he studied Scholastic philosophy at Morning Star College. In 1977 and 1979, he obtained B.Th and M.Th degrees respectively from Jnana-Deepa Vidyapeeth (Pontifical Institute of Philosophy and Religion), Pune, Maharashtra, and M.A in Philosophy in 1994 from Madurai Kamaraj University, Tamil Nadu. In 1987-90, he pursued research study for Ph.D under the supervision of late Prof. Dr. D. S. Amalorpavadass in the Department of Christianity of Mysore University, Karnataka. He was recalled to Morning Star College to resume teaching at the untimely death of his supervisor. He availed himself to the opportunity extended to him by Radboud University Nijmegen to complete the research project. The present book is the culmination of his work for doctoral degree.

In 1981-83, he taught Systematic Theology and Church History at Sacred Heart College, Poonamallee, Chennai, and in 1983-84, lectured on Contemporary Trends in Theology to M.Th students at Bishop’s College, Kolkata, and in 1986-87 gave guest lectures on Indian Christian Theology and Inculturation to M.A students in the Department of Christianity of Mysore University. From 1991 onwards, he is a faculty member of the Post-Graduate Studies at Serampore University College, W. Bengal, where he lectures on Systematic Theology and Christian Doctrines. From 1997 to 2002, he was a visiting Professor of Value Education to M. Phil students in the Department of Interreligious Relations of Madurai Kamaraj University.

From 1993 to 1999, he was a member of the Governing Body of SERFAC, Chennai – a premier Foundation in Asia on Family and Culture providing Graduate Degree Programme on Family Studies and an accredited body of the UN. In 1999, he was appointed a Theological Censure of the Diocesan Enquiry for the Cause of Beatification and Canonization of Blessed Teresa of Kolkata. He is a member of the Managing Committee of the Indian Journal of Theology since 2001. In 2006, he has been appointed a member of the National Consultation Team of the CBCI National Commission for Justice, Peace and Development. In the same year, he has been also made a permanent member of the Indian Chapter of the International Association of Religious Freedom (IARF), Oxford, UK, an organisation having General Consultative Status with the Economic and Social Council of the UN.

From 1996 to 2003, he held the office of the Executive Secretary of the W. Bengal Bishops’ Regional Commission for Dialogue & Ecumenism and initiated the pastoral process in establishing diocesan centres for dialogue & ecumenism in the W. Bengal Ecclesiastical Province. He organised over 45 dialogue and ecumenical conferences and seminars. In particular, he started the Buddhist-Christian bilateral dialogue in the sub-Himalayan region of Darjeeling and Sikkim, and strengthened the ecumenical fellowship, cordiality and academic cooperation among the four theological colleges of different ecclesiastical bodies in and around the city of Kolkata.

He has presented scientific papers at the regional, national and international conferences, especially in the field of interfaith dialogue and ecumenism. He has also published several articles in many theological journals. In the coming years, he hopes to work with the CBCI National Commission for Religious Harmony in order to open new frontiers of dialogue and participation with the civil society centred on the axiomatic principle of human dignity.