

21

Religion and Secularism in Contemporary Nepal

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Introduction

Religion in Nepal has always been simultaneously an individual, a family, and a political matter.¹ It has been individual because there has always been the freedom, within certain limits, for individuals to pursue their own style of devotion or ritual practice, should they wish to do so. It has always been familial in that for a long time maintaining the traditions, rituals, and festivals of the household, one's *kul dharma* or 'family religion', was the main and minimal obligation that society expected people to fulfil. That expectation is still strong, even today. And, finally, religion has always been political because the rulers followed certain cults and traditions (primarily Shaivite and Shakta, though labelled as Vedic) that marked them out as legitimate Hindu rulers.² They also forbade certain practices (killing cows, eating beef, hypogamous marriages) that served to mark their kingdom as a sacred Hindu realm; they ranked their subjects according to the degree to which they respected those taboos. Religion has always been political for a second and related reason: it has often (though not always) been a key marker of the ethnic group or caste to which a Nepali belongs. This has become increasingly self-conscious and politicized in the democratic and ethnically assertive era ushered in by the 1990 revolution and the fall of the Panchayat regime. Performative assertions of identity are made through large gatherings at newly created annual ethno-festivals that contest the dominant nationalist narrative of Hinduism, monarchy, and the Nepali language (Krauskopff 2003; Gaenszle 2016; Holmberg 2016).

Today, Nepal is officially a secular republic. Article 4 of Nepal's most recent constitution, promulgated in 2015, reads: "Nepal is an independent, indivisible, sovereign, secular, inclusive democratic, socialism-oriented federal democratic republican state." There immediately follows an explanatory clause: "Explanation: For the purposes of this clause, 'secular' is to be understood to mean religious and cultural freedom, along with the protection of religion and customs practised from ancient times."³ The last part of this explanation can be interpreted as giving the state permission to provide special protection for old-established religions, i.e. Hinduism and Buddhism, protection that it does not necessarily need to provide for new religions coming from outside South Asia, i.e. Islam and Christianity (for the census figures for religious affiliation, see Table 21.1). The affinity between the diverse religions of South Asia is often asserted by Hindu activists using the term 'the Omkar family', i.e. those religions that recognize the sacred syllable Om, which, when taken together, are claimed to account for more

Table 21.1: The religious breakdown of Nepal according to the decennial censuses

Religion	1952/4		1961		1971		1981		1991		2001		2011	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Hinduism	7,318,392	88.9	8,254,403	87.7	10,330,009	89.4	13,445,787	89.5	15,996,953	86.5	18,330,121	80.6	21,551,492	81.3
Buddhism	707,104	8.6	807,991	9.3	866,411	7.5	799,081	5.3	1,439,142	7.8	2,442,520	10.7	2,396,099	9.0
Islam	208,899	2.5	280,597	3.0	351,186	3.0	399,197	2.7	653,218	3.5	954,023	4.2	1,162,370	4.4
Kirati									318,389	1.7	818,106	3.6	807,169	3.0
Christianity			458		2,541		3,891	<0.1	31,280	0.2	101,976	0.5	375,699	1.4
Jainism			831		5,836		9,430	0.1	7,561	<0.1	4,108	<0.1	3,214	<0.1
Nature													121,982	0.5
Bon													13,006	<0.1
Others	684						365,445	2.4	26,416	0.1	78,994	0.3		
Unstated			5,716	0.1					18,138	0.1			61,581	0.2
Total	8,235,079	100	9,412,996	100	11,555,983	100	15,022,831	100	18,491,097	100	22,736,934	100	26,494,504	100

Notes: percentages do not always add up to 100 because of rounding; the last digit of the total for 1981 has been corrected from ‘9’ to ‘1’; the total for 2001 is left as reported in the 2001 census even though it is 15 too few.

Sources: H. Gurung (1998: 95), Dahal (2003), and 2011 census.

[p. 337:]

than 90 per cent of Nepalis (Letizia 2016b: 38; Wagner 2018). This idea is not new. Conversion to non-traditional religions was explicitly prohibited in Jang Bahadur Rana's law code of 1854 (Höfer 1979: 158). Proselytization was banned in the 1935 law code, which referred to Islam and Christianity as being 'contrary to religion' (*vidharmi*) and 'foreign' (*videsi*); they did not qualify as *dharma* and were instead referred to as *mat* ('belief') (Gaborieau 1999).

The insertion of an explanation of the term 'secularism' into the 2015 constitution was certainly not a coincidence. It can only have been the outcome of a compromise between those who wanted to remove secularism from the constitution altogether and those who wanted to retain it. There had been persistent rumours before the finalization of the constitution that the word 'secular' would be removed and would be replaced with a guarantee of religious freedom. It is certainly true that many Nepalis were and are very uneasy with the term *dharma-nirapeksa* used to translate 'secular'. Literally, the Nepali term (a Sanskritic neologism shared with Hindi) means 'non-aligned with respect to *dharma*' or 'religiously neutral'.⁴ Many Nepalis felt instinctively that the word implies a state that would remain indifferent if religious and moral rules were broken and indifferent to the possibility of the majority of Nepalis converting away from their ancestral religious traditions (Letizia 2012, 2016b). Many would have liked a referendum on whether Nepal should continue to be officially Hindu, even if it was already a given that the country would dispense with the monarchy and become a republic.⁵

On the other side of the argument, many other Nepalis were and are keen to avoid the state being closely identified with Hinduism. Such Nepalis believe that granting Hinduism special status would reinforce the entrenched and traditional privileges of those considered 'high caste' in the past, i.e. the Bahuns (Brahmins), approximately 13 per cent of the population, and the Chhetris (Kshatriyas), who are roughly 19 per cent. This objection to official Hinduism does not only come from those who are followers of religions other than Hinduism. It is strong among many of those from Janajati backgrounds (i.e. those groups who in the past were referred to as 'hill tribes' or, in the nomenclature of the nineteenth-century law code, as *matwali* or 'alcohol-drinkers' and who are often called, loosely and colloquially, 'ethnic groups' in English today). Janajatis are slightly more than a third of the total population. The Nepal Federation of Indigenous Nationalities or NEFIN (founded in 1991 and today with representative member organizations from 56 of the 59 officially recognized Janajati groups) positions itself as non-Hindu or anti-Hindu.⁶ This is problematic because, though there are many more Buddhists among the Janajatis than among other groups, as well as many Christians and followers of the new census categories 'Kirat religion', 'Bon', and 'nature-worshipper', there are many Janajati Hindus too.⁷ Even the many Janajatis who choose a non-Hindu label for census and other official purposes often follow daily and occasional religious practices that can broadly be classified as Hindu. Among those who are happy to describe themselves as Hindu in official contexts, there are many who nonetheless object to high-caste domination and would prefer the state not to be identified with Hinduism (there are also some Janajatis who disagree and support the campaign for a Hindu state).

There is a Hindu-inflected discourse (discussed further below) that seeks to deny the idea of 'secularism' any place within South Asia, or, alternatively, to appropriate it as a uniquely Hindu concept. According to this discourse, no distinction between the religious and the non-religious is made within the traditional Hindu concept of *dharma*. The idea that the state should not participate in, or should keep its distance from, or should avoid identification with, any religious institution is, it is claimed, a foreign importation. This anti-secular discourse is popular in India and draws sustenance from the supposed traditional tolerance of Hinduism, its ability to encompass many different spiritual paths. This line of argumentation has many followers in Nepal also.⁸

[P. 338:]

In this chapter we seek to explore how, in actual practice, the dividing lines between the religious and the political, or the religious and the social, or the religious and the cultural, are being drawn up. Sometimes these are merely local and personal matters, as when a Christian Nepali has to decide

whether or not to participate in the festival of Bhai Tika. In other cases, political battle lines and legal cases are the result. In the fight over animal sacrifice at the Gadhimai temple, examined below, the power of the state (expressed through the courts) lies with those who make modernist distinctions between religion and other spheres and who seek to distinguish between religion and superstition. In this they follow the precedents of postcolonial Indian courts, which have frequently pronounced on what religion is, and on what is and what is not an ‘essential part’ of a particular religion (Galanter 1971; Fuller 1988; Berti et al. 2016; Acevedo 2016; Sen 2016). Those who defend traditional practices without recourse to secular argumentation to buttress their religious position have little chance of success. On the other hand, as Shneiderman shows, in analysing temple-building among the Thangmi of Dolakha, local actors can sometimes show considerable agility and flexibility in negotiating the new categories of the state and turning them to their advantage. As she remarks, the introduction of state secularism, and its application as a principle for distributing state resources, has in effect “increased awareness of such categories [‘religion’, ‘ethnicity’] through processes of reification and objectification” (Shneiderman 2018: 79).

The religious and the secular/cultural/social: A new divide

Many Nepalis would agree that in daily life it is very difficult, if not impossible, to distinguish what is religious from what is merely cultural practice, and therefore secular. Buddhist Newars, for example, have a long tradition of being enclaved within a broadly Hindu context (Gellner 1992). They have a strong sense of their own distinct identity, yet at the same time it is possible for them to appear very similar to their Hindu neighbours, so similar that they can represent themselves, when necessary, as just a variant on Hindu themes. They have many rituals that parallel exactly their Hindu equivalent (for example, *sraddha* mortuary rituals). As long as such rituals are performed by a Buddhist priest (a Vajracharya rather than a Brahmin), and therefore in a Buddhist idiom, as long as they are directed towards Buddhist divinities, using Buddhist mantras, they can claim to be Buddhist. At the same time, they share with Hindus the same festivals and sacred sites and they can worship many of the same deities as Hindus, while ascribing to them an alternative identity (seeing Sarasvati, the Hindu goddess of learning, as Manjushri, the Buddhist bodhisattva of wisdom, for example). There is a sliding scale, therefore, of core Buddhist practices, practices that are shared (but carried out in a Buddhist idiom), and shared practices that are identical and in common with Hindus. It is rare for Newar Buddhists ever to stop and ask themselves: Is this Buddhist? Should I be doing it? It is only a minority of Buddhist reformists, followers of the newly imported Theravada tradition and of the modernist reformers among the Tharus and Magars, who seek to make a sharp distinction, consciously and deliberately avoiding everything that could possibly be labelled as Hindu (LeVine and Gellner 2005: 9–11, 282–3; Letizia 2014; Leve 2017).

There are many Nepalis who practise their inherited ‘tribal’ religion, which incorporates many Hindu elements. In the past they would have been labelled as ‘Hindu’, the default category, for anyone not clearly Buddhist, Muslim, or Christian. The specialists of these tribal religions are shamanic priests and healers. The activists, whether religious, ethnic, or both, of these traditions have been involved in a huge attempt to reclassify their traditions as ‘Kirat dharma’ (introduced from 1991), ‘Bon’, or ‘nature-worshipper’ (both from 2011) (Table 1 above). Many from these backgrounds, however, continue to practise in a pluralist and polytropic manner and are happy to continue to be labelled as ‘Hindus’.⁹

By contrast, for some Muslims and most Christians, living surrounded by a Hindu society, the issue of demarcation from Hinduism is – as it is for the purist or ‘hardcore’ Theravadins (Leve 2017) – much more pressing. The Muslims of the Nepalese hills, who have long acted as itinerant bangle-sellers, as well as being hill farmers, had to work out a *modus vivendi* a long time ago. Their ethnographer, Marc Gaborieau (1993), describes how they often have close relations with their Hindu neighbours. They share the same language and the same kinship system. They often participate in local festivals, defining these as ‘customs’, not ‘religion’. At the time of Dasain, the biggest Hindu festival of the year, when everyone in Nepal strives to return to their home village to be with their relatives, hill Muslims participate in the festival, declining only to take a red-vermilion *tika* on their foreheads.

Instead they give each other a *tika* with mustard oil, which leaves no visible mark. Reformist Muslims have made use of these same distinctions to mark out precisely this kind of practice, along with saint worship, as ‘not really Islam’ and therefore as forbidden practices to be abandoned (Sijapati 2011: 61, 109, 123).

Newly converted Christians, of whom there are now many from all castes and backgrounds, face a similar problem. Problems arise particularly at times of death. Burial is a key cultural practice that differentiates Christians from most Hindus, who cremate.¹⁰ For Hindus, the idea of burial, except in the case of exceptional spiritual personalities (who by contrast *should* be buried), is somewhat threatening. Burial may lead to ghost attack through possession of the descendants of the deceased person. As Sharma (2013) has described, this has led to cases of forcible exhumation and cremation of the remains. Leaving aside death rituals, there are numerous occasions in everyday life when Nepali Christians have to make a decision about whether something is merely a part of Nepali culture, in which case there is no problem about participating with their neighbours, or whether it is in fact religious, in which case they must avoid it. Clearly, they cannot participate in overt acts of worship or the accepting of blessed food and other substances (*prasad*), still less have anything to do with animal sacrifice. But what about family-oriented festivals such as Dasain, or Tihar? Some Christians do perform the ritual of Bhai Tika, in which sisters ‘worship’ or ‘bless’ their brothers for long life and the brother in turn gives a present to his sister. Some Christians participate in the rite while substituting Christian blessings for the Hindu. Ole Kirchheiner (2017) shows how Christians he worked with make a distinction between ‘culture’ (*sanskriti*) and ‘Hindu [life-cycle] rituals’ (*sanskara*) in order to work out when is acceptable for them to participate with friends, neighbours, and Hindu family members, and when it is not.

In the distant past, it was hard to imagine conversion of the Abrahamic sort in the Hindu or Buddhist contexts of Nepal. Individuals might have a deep spiritual experience and renounce family life and become an ascetic, but this was not conceptualized as a move from a false idolatry to true religion. It did not put into question the basic frame of family and group religious identity, one’s inherited *kul dharma*, except for the individual concerned. It did not imply that everyone belonged or should belong to one and only one named religious tradition. In the first national census, carried out in two phases in 1952 and 1954, people had no idea what to answer when faced with the question, ‘What is your *dharma*?’ The idea that it had to be one, and only one, from a suite of options – Hinduism, Buddhism, Christianity, or Islam – was unfamiliar and the census enumerators had to be trained on how to recognize the adherents of one or other religion (Gellner 2005: 755, 771). Still further in the past, in the eighteenth century, Capuchin fathers lived in the three city states of the Kathmandu and attempted to convert the rulers. King Ranjit Malla of Bhaktapur refused to convert himself, but he offered them some of his low-status subjects (Alsop 1996: 132). It seems that the converts themselves were not given much choice in the matter.

[p. 340:]

When Prithvi Narayan Shah conquered the Kathmandu Valley in 1768–9, these few Christian converts were expelled from Nepal; they settled near Bettiah in Bihar. Prithvi Narayan, his successors, and the Rana Prime Ministers who ruled Nepal from 1845 to 1951, all agreed that they did not want Christian converts appearing in their society. The idea that individuals can attempt to abandon their position in the caste hierarchy and leave off their *kul dharma* remains threatening to many Hindus even today. When Christians began to appear and speak in public after 1990, many Hindus were shocked (Hoftun et al. 1999: 313f), and this strengthened their resolve to make sure that the country continued to be officially Hindu in the 1990 constitution. Seventeen years later, in January 2007, it was only because of the tight connection between the monarchy and Hinduism that the interim assembly passed an interim constitution with no mention of Hinduism and then, in May 2008, the new Constituent Assembly voted to get rid of both Hinduism and the monarchy. Subsequently, many MPs regretted their action (Letizia 2016b: 40–2).

Despite laws against providing incentives for conversion, there is plenty of evidence that Christian conversion is happening at an increasing pace. The 2011 census recorded 375,699 Christians, or 1.4 per cent of the population, up from 0.5 per cent ten years earlier. Many believe that this is a

considerable underestimate. There are two main patterns of conversion. In one pattern whole villages (usually Tamangs) convert together (Fricke 2008). The advantage here is that the social tensions caused when an individual or just one household converts are avoided. There is mutual support. The other main pattern is when an individual – often someone who has experienced considerable tensions and conflicts with neighbours and kin – falls ill and cannot be cured by any of the conventional means (doctor, spirit medium, Tantric healer). As a last resort, often at the suggestion of a friend, they try visiting a church and find instant relief. The church provides both physical healing and a readymade community (Gibson 2017a, 2017b). For many it would seem that the adoption of Christianity is a form of ‘suitable modernity’ and, in some cases at least, a way to be both true to local history and internationally connected at the same time (Campbell 2016; Liechty 2003).

In the eyes of the Hindu majority, foreign missionaries hold out inducements that encourage vulnerable people to convert, the old South Asian accusation of ‘rice Christians’. The evidence from those who have studied the phenomenon is that the evangelizing is done by Nepalis themselves, rather than by foreigners. What Nepali Christians seek is a secular state in the sense of a state that will not play favourites between religions, a state that will give them the freedom to follow their faith without interference and allow them spaces to use as cemeteries.

A parallel problem is faced by those groups determined to shake off an older Hindu identity and to declare themselves Buddhist or Kirat. They have to identify those elements of what they are used to doing that can be easily and conveniently labelled as ‘Nepali culture’, and therefore can be continued, from the specifically Hindu elements that must be abandoned. Out of this process of constructing a ‘not-Hindu’ identity, there grew the campaign to boycott the national festival Dasain. Janajati activists were the leaders of this movement.¹¹ After some years of controversy, a kind of steady-state compromise has emerged in which a few activists self-consciously avoid the festival altogether, but most Janajatis participate, while saying, ‘This is not our festival’, ‘It was imposed upon us by others’, ‘It symbolizes our defeat’, etc.

The two major Janajati groups whose activist leaders began to advocate for a new Buddhist, and not Hindu, identity in the 1990s and early 2000s were the Tharus and Magars. Tharu and Magar intellectuals proposed new historiographies for their groups, affirming a Buddhist past (Krauskopf 2003, 2009; Letizia 2014). Tamangs, by contrast, had always been Buddhist (Holmberg 1989, 2016; Steinmann 2016). Gurungs had a traditional affinity with Buddhism without ever being so unequivocally Buddhist as the Tamangs (Tamblyn 2002); many of them had in [p. 341:] fact come to think of themselves as Hindus, so that a Buddhist conversion or re-conversion movement was necessary among them too (Hangen 2010: Ch. 6). The Rais and Limbus, in the far east of the country, have no tradition of following Buddhism and therefore, among them, anti-Hindu activism takes the form of espousing the label ‘Kirat religion’ (Gaenzle 2013, 2016; Shrestha and Gellner 2018).

This religiously oriented Janajati activism converged with that of Buddhist Newars in the Kathmandu Valley, who ever since the 1920s had been experiencing a revival of Buddhism in its modernist Theravada form (LeVine and Gellner 2005; Leve 2017). These Newar Buddhists, both monks and laypeople, had a key role in the campaign for a secular state in 1990. Their activism also took the form of missionary work to spread Buddhism among other Nepalese groups, in part to increase the number of Buddhists in the decennial census, which they firmly believed had been kept artificially low during the Panchayat period. These Buddhist activists organized Buddhist Awareness Camps for ethnic groups, where an introduction to Buddhism with a modernist flavour was mixed with ethnic and political activism. The camps led to a series of activist campaigns to construct local monasteries, to substitute Buddhist life-cycle rituals performed by lay officiants for rituals performed by Brahmin priests, to find evidence of a Buddhist past in the group’s traditions and artefacts, and to encourage Tharu and Magar boys to ordain as a Theravada novice and go for education and training in Thailand.

Tharu and Magar activists saw Buddhism as a rational and modern system of values that would help their people discard superstition (such as the Gadhimai sacrifices discussed below), the worship of gods, blind obedience to authority (all features attributed to Hinduism and the costly rituals celebrated by Brahmins), and to embrace education and modernity. In their eyes, just as for Ambedkar as leader of the Dalits in India, Buddhism was a positive tool for the modernization and development of their

group, freeing it from a position of inferiority in a religiously defined hierarchy and from exploitation by Hindu high castes. Buddhism has the added advantage in Nepal of being an identity that cannot be accused of being ‘un-Nepali’, because Lumbini, the Buddha’s birthplace lies in Nepal. Nepal therefore claims the Buddha as a ‘son of Nepal’, a fact of which the government seeks to take maximum advantage (diplomatically and to encourage tourism/pilgrimage). All Nepalis, whether Buddhist or not, are proud that the Buddha was born in Nepal and resent the way in which he is often represented as Indian (Dennis 2017; Gellner 2018).

What is secularism in the Nepali context?

When the state was defined as secular in the Interim Constitution of 2007, there had been no discussion of what secularism was or could be. At the time, it was mostly accepted by the political elite, with some misgivings, as a necessary tool to remove the king and as part and parcel of establishing a republic. Although they understood that it was a momentous and necessary step towards a more egalitarian society, they did not engage in any debate on the complex changes that would need to be worked out.

This lack of clear leadership from pro-secular politicians created a vacuum, which was filled by other stakeholders and multitude of different voices. Amidst the variety of religious, political, social, and geographical circumstances, secularism appeared as a fluid and multivocal notion. What all the different advocates and different positions had in common was the idea that secularism was not simply a debate about the proper relationship between the state and religion but was rather about the broader response of the state to ethnic and religious diversity. For Janajati activists and for non-Hindu religious activists, whose movements had been created and had taken off in the 1990s, secularism was a means to counter a centuries-old process of Hinduization. The point was to de-Hinduize the state and to establish a multicultural Nepal.¹² Distinct ethnic groups and [p. 342] religious minorities wanted to be recognized at last on an equal footing with the majority. For them, secularism did not imply the shrinking of religion to the private sphere; it was about giving minorities the chance to affirm their existence in public, with official recognition, including their own specific religious festivals and traditions. Thus, state recognition for new religious festivals linked to particular groups, and state contributions to funding them, were considered victories for secularism.

The Maoists, who were very influential in the period when secularism was being established, saw secularism as a way to free Nepali society from a deep-rooted feudalism based on Hinduism. Interestingly, for them, it was a ‘gradual path’ (towards an atheist agenda), a path of respect for all religions. Thus, they shared, though for different reasons, the dominant mainstream vision of secularism.

Muslims and Christians favoured secularism because they identified it with a notion of equality for all religions that implied special treatment for specific groups on issues that were important for them. Muslims hoped that secularism would mean that they could have *shari’a* law recognized for their community and to receive state funds for Madrasa education and going on Hajj, as happens in India. Christians, on the other hand, focused on secularism as implying religious freedom, and specifically the freedom to choose one’s religion (and to convert).

On the part of Hindus there was a wide spectrum of views about secularism. Some simply denied that the vote for was valid. Others, in line with a pervasive discourse discussed further in the next section, believe that secularism is a Christian conspiracy to allow proselytization and that it will lead to the mass slaughter of cows and communal violence. Secularism is thus a threat (to the Hindu order) which is therefore a justification for a (sometimes violent) defensive response.¹³ Another rather convoluted position of the Hindu right appropriates secularist ideals into its own discourse on the lines of ‘Hindu secularism’ described above. It equates secularism with ‘religious tolerance’ and ‘equal regard to all religions’, but in the same breadth it denies these qualities to actual secularism, which is portrayed as promoting proselytising religions and thus being disrespectful and disruptive. Hinduism,

in contrast, is described as a true all-encompassing and tolerant tradition, thus providing the neutral and ‘secular’ ground on which all Nepalis can meet in harmony (Letizia 2016b: 59–60).

A Hindu stance, distinct from the foregoing, which is both anti-secular and progressive, focuses on reforming ‘superstitious’ and ‘backward’ practices within Hinduism. In other words, social activism does not require secularism; reforming Hinduism to weed out the backward aspects of tradition can provide a solution that does not imperil the Hindu order. The very fears and hostility expressed by Hindutva associations and activists demonstrate that both the opponents and the advocates of secularism share an understanding of it as the recognition of religious diversity and the institutionalization of freedom of religion, in other words, that secularism marks the end of the former primacy of Hinduism.

It was inevitable that the vague and ambiguous clauses of the new constitution would end up being tested in the courts. In 2008, the Supreme Court quashed a petition invoking secularism in order to repeal the law criminalizing cow slaughter. The Court skirted the issue by pinning the justification for the ban on a secular provision (that the cow is the national animal) rather than the expected and usual understanding that it is a sacred Hindu animal (Letizia 2016b). Another case that reached the Supreme Court concerned the young girl chosen to be the famous ‘living goddess’ Kumari. The petitioner claimed that the living goddess tradition infringed the child rights of the girl chosen. In a balanced judgement delivered on 16 August 2008, the Court argued that, while supporting tradition, it was necessary to exclude ‘backward practices’ from the Hindu religion, thus paving the way for reform, and yet maintaining a reformed and modernized Kumari tradition (Letizia 2013, 2016a).

[p.343:]

The first case where the Supreme Court was obliged to rule on the boundary between ‘the secular’ and religion arose because of a controversy over the appointment of Nepali priests at Pashupatinath temple, at the direction of a new Maoist-led government that controlled the temple’s governing body (Letizia 2012). The government, seeking an advantage in the cultural struggles it was waging against dominant forms of practice, invoked nationalist reasons to appoint Nepali priests at Pashupatinath, going against the centuries-old tradition of appointing south Indian Bhatta priests to the Pashupati temple. However, this provoked such a backlash in Nepal and India that the government had to back down. It was ironical that one of the first legal invocations of the principle of secularism came on behalf of a Hindu temple seeking to block government action perceived as anti-Hindu (whereas it was widely presumed that secularism was about protecting non-Hindus from the Hindu majority). The court supported the principle of non-interference by the government in its judgement of 11 January 2010. The Pashupatinath case led people to understand secularism in a new way, as involving the principle of non-interference by the state in religious institutions and practices – a notion that was inconceivable under a Hindu state (and not previously applied in the other cases). However, the substantial reforms (new administrative structures) that were introduced at Pashupatinath after this case allowed the state to continue its direct involvement in the running of the temple. Thus, surprisingly, the notion of non-interference invoked in the petition and nominally validated by the court did not have major consequences for the way in which the temple is run.¹⁴

Among ordinary people, the introduction of secularism (despite the absence of a clear definition or significant legislation) created a generalized ‘feeling of epochal change’, in some cases feared, for others anticipated with hope.¹⁵ The Western notions of secularism – the separation of state and religion, or the privatization of religion – are not what Nepalis generally understand by the term, nor is it (the Pashupatinath case excepted) what is implied in most legal arguments either. Hardly anyone questions state support for religion as such. Rather, for most people, the issue is about treating all religions equally and fairly. In line with Indian notions of secularism (Bhargava 2010, 2012), it is assumed by almost everyone that religion is, and should be, expressed at individual, familial, and group levels. Only a few intellectuals imagine that secularism should mean confining religion to the private sphere with a concomitant general secularization of society. Most people expect that religious arguments, religious symbols, and religious groups will find their place in the public sphere. Non-Hindus hope to be accepted on the basis of equality and without the hierarchical expectations of the past. Having said that, it is important to note that Muslims in Nepal do not feel sufficiently secure to

campaign openly in the way that Buddhists frequently do. Some have even been persuaded to come out with statements favouring a Hindu state.¹⁶

Despite the fact that religion is still important at all levels – within households, in public, in politics, and at the group level – it would not be correct to say that there has been no secularization of Nepali life at all. The much greater prestige and resources received by Western biomedicine in Nepal, as compared to Ayurvedic medicine or alternative forms of ritual and quasi-religious healing, is one indication of that gradual secularization (Gellner 2001b). In politics, even under the Panchayat regime with its public self-presentation as the world's 'only Hindu Kingdom', there was in practice a considerable secularization of governance (Gaborieau 2002). In the aftermath of the devastating 2015 earthquakes, it was an entirely secular monument, the Dharahara tower (also known as the Bhimsen tower), and not the Pashupatinath temple, that came to symbolize the nation in poetry, essays, and the iconography of a nation reborn (Hutt 2019). In law, as will be shown in discussing the Gadhimai festival below, secular reason increasingly trumps purely religious reason.

[p. 344:]

The simple fact of becoming an officially secular state has had consequences for key religious issues such as conversion and cow slaughter. Christians feel relatively more secure and less likely to be harassed over the issue of conversion (Letizia 2016b: 62–3), though both Christians and Muslims continue to feel insecure to varying degrees. Ironically, as in the Pashupatinath case, secular arguments have been invoked by the courts for the continuation of state protection for cows. But prosecutions of Muslims for cow slaughter, though continuing, are much less likely to be successful (ibid.: 66–7). At the time when secularism was first declared, and the old Criminal Code still remained in place, those charged with applying Nepal's laws in line with the new constitution found themselves caught between aspirations and fears; they had to juggle the symbolic power of the law, token enforcement, and pragmatic accommodations for the sake of social harmony.

The place of Hinduism in a newly secular state

As we have seen, Hinduism was the main legitimating framework for the Shah dynasty from the time of the formation of the current state of Nepal (in 1769 and the years that followed). It was equally the framework through which the Rana Prime Ministers legitimated their rule between 1845 and 1951. As Michaels shows (Ch. 9 in this volume), there is a deep history to the link between Hinduism and rulership in Nepal, going back nearly 2,000 years. As Hinduism was the religion of the rulers, it is no surprise that there was considerable pressure to Hinduize as the Gorkhali state expanded its control and intensified its rule – pressure to which many local elites responded more or less enthusiastically over the course of the nineteenth and most of the twentieth centuries (Pfaff-Czarnecka 2008). At the same time, there was a gradual, almost imperceptible, bottom-up process by which Janajati peoples adapted to Hinduism and Hinduized, while hardly being aware that they were doing so (Allen 2008). There was the gradual emergence, at least in the 'middle hills', the central band and heartland of the new Nepalese state, of a shared Hindu framework, perhaps best illustrated by the cult of the uniquely Nepali goddess, Swasthani (her name means, literally, 'own place'). Worshipped by means of a fast and a text reading held over a month in winter, the Swasthani cult started out in a Newar-speaking milieu in the Kathmandu Valley but quickly spread in its Nepali version during the nineteenth and twentieth centuries. It is now popular wherever there are Nepali speakers and may be said to be the quintessential expression of popular Nepali Hinduism (Birkenholtz 2018).

Inevitably, in this Hindu-dominated polity, the two highest Hindu castes, the Bahuns (Brahmins) and the Chhetris (Kshatriyas), came to dominate in almost all spheres of public life. The history of political and social mobilization since 1990 has been largely that of attempts by other groups in a highly diverse country of 125 castes and ethnic groups and 123 languages to find a new space and new recognition, to escape from that domination. For some of these groups, religion – either Buddhism or Bon or Kirati religion – has been a banner under which to contest this domination (Lecomte-Tilouine 2003; Letizia 2014; Gurung 2015). For others, mobilization as a new ethnic

‘macro-category’ – as Dalits (former Untouchables), as Janajatis (former ‘hill tribes), or as Madheshis (people of the plains or Tarai) – has been an effective means to gain greater political representation.¹⁷ Ethnic divisions and religion do not coincide in Nepal, meaning that there is no single religious label under which all those opposed to the dominant Hinduism can unite. There is, in short, fragmentation between the various movements and, for the most part, the dominance of Bahuns and Chhetris has continued (Lawoti 2013).

Despite such long-term deep-structural continuities, there has been radical change in Nepal following the end of the Maoist movement, the removal of the monarch, and the introduction of a federal republican political system. Secularism came along with these changes. The push [p. 345:] for secularism was thus primarily about redefining the social and political role of Hinduism and was first manifested in the adoption of a multi-religious holiday calendar and other measures intended to give a voice and recognition to religious minorities.

Anti-secular Hindu activists, who surfaced after 2008 and grew louder after the failure of the first Constituent Assembly in May 2012, were met at first with a surprising lack of response from pro-secularism intellectuals. This meant that constructive debate on the form that secularism should take in Nepal did not ensue, and the task of explaining and defining secularism was left largely to anti-secular voices, the Hindu Right in particular. Opposition to secularism in 2006–2014 was built around some recurrent arguments, which can be summed up by saying that the Hindu majority felt increasingly threatened. Describing Hindus as a ‘besieged community’, supposedly undermined by Christian and Muslim proselytization, these arguments, borrowed from Indian antecedents, had already emerged in 1992.

The issue of the loss of Nepali ‘cultural identity’, intertwined with the issues of illegal conversion and cow slaughter, attributed to Christian and Muslim communities respectively, have emerged as the focal points of the Hindu Right’s opposition to secularism in contemporary Nepal. Secularism is often presented, in line with ideas widely circulated in India, as the product of a foreign Christian (and/or European Union) conspiracy intended to allow proselytization, convert people away from Hinduism, and weaken the country. The Hindu Right also blames the secular state for unleashing the ‘dangerous potential’ of minority religions, giving rise to communalism and conflict instead of peace and harmony. Secularism is condemned for allegedly opening the door to mass conversions. It is portrayed, simplistically, as giving religious minorities the right to convert to other religions and to eat cows, whereas protecting cows and banning conversion symbolized the purity and the Hinduness of the former kingdom. The country’s loss of cultural unity and identity (Nepaliness equated with Hinduness) is lamented with the cry that Nepal is no longer the ‘last land of the Hindus’.¹⁸

The backlash against the idea of secularism reached its peak in the months preceding the enactment of the new Constitution of 2015. As described above, many hoped that the very term ‘secular’ (*dharmā-nirapeksa*) would not be used, but they were to be disappointed. The leading spokesperson for this point of view is Kamal Thapa. His party, the RPP-N, did extremely well in the 2013 elections, picking up many middle-class Hindu-leaning votes in Kathmandu and Birganj in the proportional part of the vote (every voter had two votes, one for a first-past-the-post candidate in their constituency, one for a proportional party list). The RPP-N won 44 seats, making it the fourth-biggest party and conferring considerable influence (Gellner 2014). From October 2015 to August 2016 Thapa was both Foreign Minister and Deputy Prime Minister in a coalition government that was trying to implement the new constitution. This gave him a platform for his agenda of restoring Nepal’s status as the world’s only officially Hindu nation and also for the return of the monarchy. However, when elections were finally held in 2017 for the various tiers of the new federal system, with a national parliament much reduced in size, his party ended up with only one MP, thanks largely to the huge success of the UML-Maoist alliance. It seemed as if the highwater mark of political Hinduism in Nepal had passed.

Meanwhile, the new republican state needed to work out how to deal with the huge number of Hindu rituals, temples, and land that it had inherited from the erstwhile monarchy. Before Nepal became a republic, the King would be present at many festivals. He was simultaneously the foremost Hindu ‘sacrifier’ or *jajman* of the country, and a symbol of the nation-state. On the one hand, the successful accomplishment of the festival and/or rituals brought about the fertility and prosperity of the kingdom

through the person of the king. On the other, whatever the ethnic, regional, or cultic differences existing between its members, the nation could view itself as a unity in and through the king. Once the king had been removed, it was essential—so [p. 346:] the politicians now in charge of the country realized—to prevent the ex-king, Gyanendra Shah, from continuing to perform his ritual duties, or he might threaten to return to power (Mocko 2016; Zotter 2016b). They could not risk a situation, as in India, where former princes continue their ritual roles despite no longer having any official status in the country's constitution, a position some have exploited to become powerful elected politicians. The Nepali government therefore set about systematically replacing the king with the president in big public festivals. Meanwhile, on occasion, Gyanendra attempted to sneak in and insert himself in proceedings at the appropriate time, claiming that it was his right, as a private citizen, to attend whatever religious event he wished. Monarchists still seek out Gyanendra's blessing at Dasain, as if he were still the king of the country. Similar issues occur in many local festivals where the king has a symbolic presence. The newly reconstituted relationship between political power and the gods has to be negotiated there too, even when the state itself is no longer involved (Zotter 2016a).

It was clear to Baburam Bhattarai, leading Maoist ideologue and from 2008 to 2009 the Finance Minister in the Maoist-led coalition government, that depriving the ex-King of his ritual roles was not enough. Gyanendra also had to be removed from his principal residence, the Narayanhiti palace, and the palace converted into a museum, in order to mark a clear break with the past (Whitmarsh 2017, 2018). This happened in 2009. Most of the palace staff were retained as museum employees. Rs 50 million was allocated for the design and building of a republican memorial to be placed within the palace grounds, so that the visitors would be guided on a teleological tour from monarchy to republic, from feudalism to hope, as they walked through the museum (Whitmarsh 2018).¹⁹

The debate over animal sacrifice at Gadhimai

Animal sacrifice to the gods has long been controversial in South Asia. Movements outside of Hinduism, notably Jainism and Buddhism, and within it, i.e. Vaishnavism, made a virtue of *ahimsa*, literally 'the absence of a desire to kill', conventionally translated as 'non-violence'. Even those Hindus and Buddhists who do eat meat and/or do tolerate sacrifice refrain from doing so on certain days or under particular ritual circumstances. Campaigns against sacrifice were influential in India under the British and became stronger after independence, so that animal sacrifice there is, with some exceptions, mostly carried out away from the public gaze. In Nepal, by contrast, Vaishnavism was much weaker and Buddhism accepted compromises (Owens 1993); the state sponsored and still sponsors large numbers of buffalo sacrifices at the annual Dasain festival (Michaels 2016). Thus, to the shock of some tourists and increasing numbers of Nepalis, the sacrifice of animals at Hindu shrines is frequent and easily observed. Debates over whether to sacrifice animals or to replace the animal with a vegetable substitute have reached even into villages (Adhikari and Gellner 2016b).

The Gadhimai festival, held every five years, at which large numbers of buffaloes, goats, and pigeons are slaughtered, is an outlier even among these practices.²⁰ As the Gadhimai temple is in the Nepalese Tarai and close to the Indian border, large numbers of Indians cross over to attend. It is estimated that possibly 250,000 animals, including 18,000 buffaloes, die and, in 2009, up to four million people attended. The festival has, since 2009, generated a considerable volume of activism, both in the public sphere and in the courts (Michaels 2016: 209–21). It was during the festival of 2009 that news and pictures of the slaughter started to circulate on the Internet, giving rise to vehement protests, locally and internationally, and attracting the condemnation of, amongst others, both Brigitte Bardot and Maneka Gandhi. Three separate petitions were filed at the Supreme Court of Nepal on the eve of the 2014 festival. The arguments placed before the Supreme Court invoked both religious and secular reasoning: that what happens at [p. 347:] the festival contravenes laws about the health of animals, cruelty to animals, the quality of meat, pollution of the environment, and even effects on the psychology of children, but also that sacrifice is not really dharma, but a corruption contrary to what is argued to be the spirit of ancient Hindu religion, based on non-violence (*ahimsa*).

On 4 August 2016 the Hon. Justices Ishwor Prasad Khatriwada and Anil Kumar Sinha responded to all three petitions together. This was a landmark judgement because the Court not only took it upon itself to determine the essence of the Hindu religion, but also to recalibrate the social space given to a particular religious practice, by giving more weight to competing (secular) human and animal rights. According to the Court, animal sacrifice is not a proper part of Hinduism, it is not justified in its scriptures, and it is contrary to Hindu norms of non-violence. They rejected the defendants' arguments that animal sacrifice is necessary to please the goddess on the grounds that the mother of the universe would not be happy to see her own children sacrificed. They stated that brutally killing thousands of animals "in the name of religion or tradition" is not appropriate for a modern civilization in the twenty-first century: it is a superstition and must be abolished.

In addition to these modernist Hindu arguments, the Court invoked the philosopher Peter Singer on animal liberation and compared the laws of fourteen foreign countries that forbade and penalized cruelty to animals. The judgement concluded: "From whatever point of view one considers the matter—whether religious, social, cultural, ecological, moral, or logical—it appears desirable to bring an end to the practice of animal sacrifice." The judges recognized, however, that it would not be possible to stop the sacrifices overnight, but rather directed the government to make a plan for bringing them to an end over time and in stages, and, in the meantime, to raise public awareness and take measures to ensure that proper health and environmental controls were in place to promote animal welfare.

Both the activists and the Court relied simultaneously on Hindu reformist and on secular perspectives to re-describe the vocabulary of animal sacrifice, based on the idea of an asymmetrical exchange relationship with the goddess, in legal and reformist terms. Instead of being a renunciation of one's self and a righteous exchange with a higher power, animal sacrifice is refigured as a superstitious practice that needs to be banned, a barbaric and foolish display of violence without purpose, a classic 'social evil' against which all right-thinking people must protest. The local Hindu and Tharu perspective, in which faith in the goddess is an unequivocal good, to be expressed by each devotee in their own way, is certainly challenged by this combination of activist and legal reasoning, of Hindu reformist and secular-legal pressure. Although the festival has not come to an end, the number of sacrifices have undoubtedly decreased. By laying down general principles, the Supreme Court has established a precedent that can be used to challenge animal sacrifices at other festivals elsewhere in Nepal. The power of the court judgement to begin to effect change depended on its ability to wield both secular arguments about health, welfare, and rights, and arguments about what Hinduism 'really is'. The defenders of sacrifice, who presented it as a valid, historical Hindu tradition and an expression of devotion protected by the right to freedom of religion, were not able to combat the arguments that their idea of Hinduism was 'backward', 'superstitious', and based on a misguided notion of the Hindu religion.

Conclusion

Avash Bhandari begins his study of the conflicts over the admission of non-Bahun pupils to the priestly school within the Pashupati area, with the statement that "Secularism remains a highly contested term in the newly secular state of Nepal" and he ends with the observation that "the debate on secularism and inclusion in Nepal is far from a sealed deal" (Bhandari 2016: 85, 109). [p. 348: The various examples of religious phenomena in contemporary Nepal described in this chapter certainly support these conclusions. Yet, despite the contestations, secularism has emerged as part of a new shared vocabulary, along with new concepts, such as 'religion', 'ethnicity', 'exclusion', and 'gender', to describe Nepal's famous heterogeneity.

Nepal is well behind India in the way in the degree to which its society and traditions have modernized, but it is fast catching up (Gellner et al. 2016; Sijapati and Birkenholtz 2019). Change and adaptation cannot be avoided. Even the remotest villages are profoundly affected by the international migration of so many of their sons and daughters (March 2018; Zharkevich 2019b). In the personal practice of religion, many new, individualistic, and relatively ritual-free paths have emerged that appeal to the new urban middle class (Toffin 2016). The official position of the state on Hinduism and

secularism changed radically with the 2007 Interim Constitution and the final adoption of the 2015 Constitution. We noted above how secularism has been an ideal for those who have wished to combat traditional Hindu dominance. We mentioned the way in which new distinctions between the 'religious' on one side and the 'non-religious' or 'secular' on the other have to be made by Christians, Muslims, and hardcore Theravada Buddhists, in order to decide which Nepali traditions they may continue to practise and which have to be given up. Even the Thangmi villagers of Dolakha, described by Shneiderman (2018), have had to learn to think of their traditions as either religious or ethnic in order to negotiate the new categories of the state.

The institutionalization of minority rights has led the Hindu majority to feel newly on the defensive. Suddenly other religions also have a claim on the resources of the state. The King is no longer there and the constitution no longer states (as it did in 1990) that he must be "a descendent of the Great King Prithvi Narayan Shah and an adherent of Aryan culture and the Hindu religion" (Dhungel et al. 1998: 226). In this context a newly assertive Hindu modernism is attractive – for some as a political stance, for others as a cultural mission, and for yet others as a useful ally in the battle for the protection of animal rights. The Gadhimai festival distils many of the dilemmas and contests over the modernization of Hinduism. It highlights the combination of religious and secular reasoning that characterizes attempts at reform. Despite the fact that under the constitution the state is no longer aligned with any one religion, the Supreme Court could not avoid taking a position on what Hinduism is. Despite its recommendation of gradual change rather than an outright ban, the most influential legacy of the Court's decision may be the attempt to define what Hinduism is, in its essential core, and its consequent specification of what can and should be changed in the long run.

ENDNOTES

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² See Michaels (this volume) and the references on Dasain in note 11 below. Shneiderman et al. (2016) is a useful survey of recent literature on Nepal.

³ This is our translation of the Nepali: 4. *Nepal rajya: (1) Nepal svatantra, avibhajya, sarvabhaumsattasampanna, dharmanirapeksa, samaveshi, loktantratmak, samajvad unmukh, sanghiya loktantrik ganatantratmak rajya ho/ Spastikaran: Yas dharako prayojanko lagi 'dharmanirapeksa' bhannale sanatandekhi caliaeko dharma samskritiko samraksan lagayat dharmik, samskritik svatantrata samjhanu parcha/*.

⁴ There has been intense argument in India, ever since 1947, over how secularism (which was only written into the preamble of the Indian Constitution by Indira Gandhi in 1977) should be understood. Many argued for a different translation, *sarva-dharma-samabhava*, or 'respect for all religions'; many have [p. 349:] suggested it should mean the equal treatment of all religions (often those who disliked the specific privileges of particular minorities, especially Muslims); and Rajeev Bhargava has theorized the actual practice of the Indian state as 'principled distance', i.e. the state remaining equidistant but not necessarily treating all traditions the same (Bhargava 2010, 2012).

⁵ On the history of how Nepal became secular, see Letizia (2012, 2013, 2016a, 2016b), Leve (2007), Gellner and Letizia (2016, 2019). The 2015 Constitution attempts to give rights to and to satisfy everyone, thereby leaving the courts with much to adjudicate. In 2019 a case was brought arguing that the criminalization of conversion in Article 158 of the Criminal Code contradicts the freedom of religion guaranteed in Article 28 of the Constitution. The Supreme Court's Constitutional Bench dismissed the claim as unsubstantiated. Despite this, the state of the law – in particular, what constitutes an illegal act of conversion – remains uncertain (Payne and Shrestha, forthcoming).

⁶ While the definition of *Adivasi-Janajati* ('indigenous nationality') adopted by NEFIN includes the criterion of not being a part of the Hindu caste system, in line with the activism of the early 1990s that first introduced the idea of indigeneity to Nepal (Gellner 1997: 20–1), the definition used by the government-funded Nepal Foundation for the Development of Indigenous Nationalities (NFDIN), set up in 2002, omits it (Hangen 2010: 52).

⁷ On these new census religious categories, see Dahal (2014). On Kirat religion, see Gaenszle (2013, 2016). The link between religion and ethnicity is covered in more detail in Gellner and Letizia (2019) and in Gellner et al. (2016). On ethnicity in Nepal more generally, see, inter alia, Hangen (2010), Fisher (2001), Guneratne (2002), Lawoti (2005), Gellner (2007), Gellner et al. (2008), Lecomte-Tilouine (2009a; 2009b), Lawoti and Hangen (2013), Toffin (2013: ch. 3), Adhikari and Gellner (2016a), and Shneiderman (2015).

⁸ Even the lawyers who wrote a comprehensive commentary on Nepal's 1990 constitution (which, unlike the 2015 constitution, designated the country as a 'Hindu Kingdom') argued in defence of the idea of 'Hindu secularism': "There is no mysticism in the secular character of the state and so the institution of the Hindu state amounts to little more than that the Hindu mode of secularism is to prevail... Thus the state treats alike the devout, the agnostic and the atheist. It eliminates God from matters of state and ensures that none shall be discriminated against on the ground of religion... [B]y giving continuity to the concept of Hindu secularism the framers of the constitution warded off in Nepal the dichotomy between the theory and practice of secularism present in many jurisdictions" (Dhungel et al. 1998: 76).

⁹ For the term 'polytropy', see Gellner (2005). There is a huge literature on the shamanic religions of Nepal. See, i.a., Höfer (1974), Hitchcock and Jones (1976), Holmberg (1989), Mumford (1989), de Sales (1991), Maskarinec (1995), Riboli (2000), and Gaenszle (2002).

¹⁰ A considerable number of Kirat people bury their dead as well (see Gaenszle 1999).

¹¹ See Hangen (2005, 2010: Ch. 6). On the contested interpretation of the Dasain festival, see also Levy (1990), Ramirez (1993), Krauskopff and Lecomte-Tilouine (1996), Campbell (1995), Pfaff-Czarnecka (1996), Gellner (2001a), Uesugi (2007), and Leve (2017).

¹² See Leve (2007), Hangen (2010), Letizia (2014), Shneiderman (2018), and the sources given in note 7.

¹³ For a detailed case study of one extreme Hindu activist jailed for his possession of weapons and bomb-making equipment, see Letizia (2015); cf. Wagner (2018).

¹⁴ For earlier disputes, including court cases, about rights and control in the Pashupatinath temple, see Michaels (2011).

¹⁵ This is explored in many of the case studies in Gellner et al. (2016), including Zharkevich (2016); see also Zharkevich (2019a).

¹⁶ ET (2015). On Muslim insecurity, see Letizia (2016b: 48) and in more detail Sijapati (2011: Ch. 4).

¹⁷ On ethnic mobilization, see the references in note 7. On these ‘macro-categories’, see also Gellner (2016, 2019).

¹⁸ These ideas appeal to upper-caste Nepalis facing discrimination in the USA as well, as described by Sijapati (2019: 262f).

¹⁹ Much more detail on continuities and discontinuities between the pre- and post-republican periods can be found in Mocko (2016) and Whitmarsh (2018); the topic is also covered in Gellner and Letizia (2019) and Gellner (forthcoming).

²⁰ This section is based on Letizia’s fieldwork at the Gadhimai temple (Bara district) and in Kathmandu between 2016 and the present. The fieldwork and the court judgements will be discussed in much more detail in Letizia and Ripert (forthcoming).

[p. 350:]

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