

prominent and vocal in contemporary discourse in Indian politics, that is to say, descendants of Savarkar who would see in the Jewish State a model for guidance, the re-constituting of India into a Hindu State would entail a commitment to assimilation quite different from the political assimilation that distinguishes, say, American secular constitutionalism. Thus, as Ashutosh Varshney points out, the generic Hindu nationalist argument is that to become a part of the Indian nation Muslims would have to agree to a number of things, including an acceptance of the centrality of Hinduism to Indian civilization and a relinquishment of all claims to the maintenance of religious personal laws. "They must assimilate, not maintain their distinctiveness."⁵⁸

In contrast, the non-assimilative character of Judaism in Israel arguably enhances the prospects for religious freedom among non-Jews, introducing a political climate in which benign neglect sets the terms for religious minority relations with the state. In this regard, Gershon Weiler is correct to see the very idea of personal status in conflict with the idea of equal citizenship.⁵⁹ But opposition to personal status need not connote a principled commitment to equal citizenship; indeed it may be part of an agenda of religious subordination. Thus the insistence by the BJP and other Hindu nationalists in India on a uniform civil code is more a reflection of their determination to require Muslim acceptance of Hindu tradition than it is an affirmation of the principles of liberal constitutionalism. In this respect we might want to consider another country from the region — Thailand — in which national conflict (between Thais and Malays) is expressed in a religious idiom, a factor that seriously undercuts any pretensions the majority might assert regarding its secular intentions. In a comparative analysis of Israel and Thailand, Eric Cohen explains the Thai polity's failure, in contrast to the mixed success in Israel, in achieving a harmonious solution to its Muslim minority problem. He finds that Judaism, as a political force in Israel, is mediated through the secular ideology of Zionism, leading to an attenuation in the conflict between the state and its Arab minority.⁶⁰ "[E]ven when symbols originating in Jewish religion were incorporated into the body of the central political symbols of the state, they were not perceived as religious, but as historical national symbols; their religious salience was low not only in the perception of the Jewish but also of the non-Jewish citizens."⁶¹ There are several reasons for the more violent history of the Thai government's relations with its Malay Muslim minority, but the one that is most relevant in this context is that Buddhism as a political presence has retained its religious significance, so that Muslims tend to perceive demands upon them as infringements upon their religion. "The Thai-Malay conflict, like that between Israel and the Arabs, is essentially a national and political one; but in Thailand it is expressed in a religious idiom, which in Israel, at least for the time being, it is not. It is this religious dimension of the conflict that endows it with its violent character."⁶² While the parallel to the Indian case is far from exact, in at least one salient respect it offers this to worry

about: a Hindu State, unlike the current Jewish State in Israel, would not be able to achieve a sufficient degree of separation between religion and the "way of life" of most of its citizens, such that adherents of the principal religious minority could safely distinguish between their sense of political exclusion and their ability to engage freely their spiritual commitments.

My argument, then, comes to this. Much as constitutionalism is a designation broad enough to include nonliberal variants, ethnorepublicanism may incorporate under its rubric both secular and nonsecular possibilities. While there are powerful normative arguments why we should not lightly countenance any constitutional experiment that embraces ethno/religious distinctions in its national self-understanding, a proper regard for the conditions that nurture and sustain a commitment to secularism will reveal the limits beyond which our tolerance for experimentation should not extend. Furthermore, whatever may be our capacity for tolerating deeply engrained religiously-based patterns of social injustice, to abandon a project in secular constitutionalism that is animated by the spirit of amelioration for a visionary project in religious nationalism, would constitute an act of surpassing insensitivity and wrongheadedness. A Hindu State would not not be like a Jewish State for the simple reason that India is not like Israel.

- 1 *Tamarin v. State of Israel*, 26 (1) P.D. 197. at 201 (1972).
- 2 V.D. Savarkar, *Historic Statements* (Bombay: G.P. Parchure, 1967), p. 221.
- 3 Savarkar, *Historic Statements*, p. 219.
- 4 Christophe Jaffrelot, *The Hindu Nationalist Movement in India* (New York: Columbia University Press, 1996) p. 53. As Jaffrelot makes very clear in his discussion of the RSS, a good bit of the ideological inspiration behind Hindu nationalism in the thirties and forties had its origins in Nazi Germany. Jaffrelot, pp. 50-58.
- 5 There are those of course would argue that the same holds true as far as the Israeli case is concerned. That is to say, even if the Zionist experiment is judged a success, its continuation may no longer be justified. So say some of the "post-Zionists" in Israel. Amos Elon, for example, has recently written: "Zionism was useful during the formative years. Today, it has become redundant. There is need to move ahead to a more Western, more pluralistic, less 'ideological' form of patriotism and of citizenship. One looks with envy at the United States, where...identity is defined politically and is based on law, not on history, culture, race, religion, nationality, or language." Amos Elon, "Israel and the End of Zionism," *The New York Review of Books*, Vol. 43, n. 20, December 19, 1996. My account does not require taking a position on such sentiments, inasmuch as they do not

directly challenge the legitimacy of the original Zionist undertaking of establishing a Jewish State.

- 6 S.N. Eisenstadt, *Jewish Civilization: The Jewish Historical Experience in a Comparative Experience* (Albany: The State University of New York Press, 1992), p. 229.
- 7 Donald Eugene Smith, *Religion and Political Development* (Boston: Little, Brown and Co., 1970), p. 11.
- 8 As Charles Taylor points out, the term *secular* was originally part of the Christian vocabulary, which serves as a useful reminder that liberalism fits most comfortably with certain kinds of religious experience. Charles Taylor, et al., *Multiculturalism and 'The Politics of Recognition'* (Princeton: Princeton University Press, 1992), p. 62. In this regard, Marc Galanter, the leading American student of Indian law, writes of the First Amendment that it is a charter for religion as well as for government. "It is the basis of a regime which is congenial to those religions which favor private and voluntary observance rather than to those which favor official support of observance." Marc Galanter, *Law and Society in Modern India* (Delhi: Oxford University Press, 1989), p. 249. There is also another kind of separation that should be minimized for our purposes. Harvey Cox's definition of secularization involves, in addition to liberation from "religious and metaphysical tutelage, the turning of [man's] attention away from other worlds and toward this one." Harvey Cox, *The Secular City* (New York: MacMillan, 1990), p. 15. But as Tocqueville suggests, a democratically constituted regime can be undermined by an exclusive focus on this-worldly concerns.
- 9 Frank Way and Barbara J. Burt, "Religious Marginality and the Free Exercise Clause," *The American Political Science Review* 77: 652-665 (1983), p. 654.
- 10 Avishai Margalit and Joseph Raz, "National Self-Determination," in Will Kymlicka, ed., *The Rights of Minority Cultures* (Oxford: Oxford University Press, 1995), p. 82.
- 11 As broad as my working definition of the secular constitution is, it cannot accommodate a regime — I have in mind a country such as Iran — where the State identifies strongly with a religion that is constitutive of society.
- 12 There is a great temptation to deny Israel the status of a secular regime. See, for example, Mark Tessler, "The Middle East: The Jews in Tunisia and Morocco and the Arabs in Israel," in Robert G. Wirsing, ed., *Protection of Ethnic Minorities* (New York: Pergamon Press, 1981), p. 247. I believe one should resist this temptation, even while conceding that Israeli policies discriminate against non-Jews.
- 13 One way to depict the thickness of Hinduism in India in contrast with Christianity in the United States and Judaism in Israel is to observe the influence of the majority religions in these three places on the social

practices of adherents of minority religions. Thus, for example, it has often been observed that although the caste system in India is uniquely associated with Hinduism, over a long period of time manifestations of its distinctive hierarchical social ordering have become entrenched in other communal settings, most notably the Muslim (most of whom, to be sure, are descendants of converts). See Louis Dumont, *Homo Hierarchicus: An Essay on the Caste System* (Chicago: University of Chicago Press, 1970), p. 210; J. Duncan M. Derrett, *Religion, Law and the State in India* (New York: The Free Press, 1968), p. 558; Marc Galanter, *Competing Inequalities: Law and the Backward Classes in India*, 1984), p. 17; and Krishna Prasad De, *Religious Freedom Under the Indian Constitution* (Columbia, Maryland: South Asia Books, 1976), p. 105. There is nothing comparable to this in either of the two other countries. In the United States, Christian influence may be discernible in the participation by members of other religions in the traditions of Christmas, but this sort of trivial cultural impact only underscores the relative thinness of American religious practice. In Israel, too, the religion to which most people belong does not constitute a significant presence in the behavior of non-adherents, although this is at least partly attributable to the non-assimilationist character of Judaism.

¹⁴ The thinness of American religiosity is partially explained in theological terms. As Warren A. Nord has observed, "Many Americans believe that believing is enough." Warren A. Nord, *Religion & American Education* (Chapel Hill: The University of North Carolina Press, 1995), p. 41. Thus Nord notes that Protestantism made doctrine and belief, rather than good works and religious practices, critical to religion. The contrast with Catholicism, Islam, Judaism, and Hinduism is not without political significance.

¹⁵ Indeed, the leading authority on law and religion in India, J. Duncan M. Derrett, notes that the Article is "subject to so many qualifications and restrictions that the reader wonders whether the so-called 'fundamental right' was worth asserting in the first place." Derrett, *Religion, Law and the State in India*, p. 451. The reference to "fundamental right" refers to the fact that Article 25 appears in Part III of the Constitution, labelled "Fundamental Rights." There are additional rights present in this section that relate to religion, such as the freedom of religious institutions to manage their own affairs, and the freedom to avoid being taxed for the promotion or maintenance of any particular religion or religious denomination. Part IV of the Constitution — the "Directive Principles of State Policy" — also contains passages implicating religious freedoms, but the articles in this section of the document are essentially hortatory in nature, meaning that they are not justiciable in Court.

¹⁶ On this point see Ravinder Kumar, "The Ideological and Structural Unity of Indian Civilization," in R.C. Dutt, ed., *Nation Building in India: Socio-*

Economic Factors (New Delhi: Lancer International, 1987), p. 34.

- 17 The significance of this presumption becomes clearer if considered in the light of this observation by Harvey Mansfield, Jr. about modern constitutionalism. "The subordination of state to society...is the main truth of constitutional government, which is shared by liberals, conservatives, and even radicals, despite the various pet projects of intervention in others' liberties cherished by all three parties. That these projects are known as 'intervention' indicates the general expectation that government be limited...." Harvey C. Mansfield, Jr., "The Religious Issue and the Origin of Modern Constitutionalism," in Robert A. Goldwin and Art Kaufman, eds., *How Does the Constitution Protect Religious Freedom?* (Washington, D.C.: The American Enterprise Institute for Public Policy Research, 1987), p. 3. Mansfield's point is that there is a general presumption in constitutional politics *against* the legitimacy of state intervention. A criticism that could be made of the prominent restrictive clauses in the Indian Constitution is that they reverse this presumption and thus threaten the viability of constitutional government. For some, no doubt, the plausibility of the criticism is rendered more obvious if Indian national identity is too closely associated with an ambiguous agenda of social reconstruction.
- 18 Subrata Mitra, "The Limits of Accommodation: Nehru, Religion, and the State in India," *South Asia Research* 9 (1989), p. 107.
- 19 Government of India Press, *The Framing of India's Constitution: Select Documents* (New Delhi: Indian Institute of Public Administration, 1967), Vol. II, p. 265.
- 20 Granville Austin, *The Indian Constitution* (Oxford: Oxford University Press, 1966), p. 50.
- 21 Galanter, *Law and Society in Modern India*, p. 247.
- 22 Justice Gajendragadkar in *Yagnapurushdasji v. Muldas*, S. Ct. J. 502, at 522, 1966.
- 23 Note, for example, the concern for the thickness of religion in this debator's comments on Article 44, the section in the Constitution concerning a uniform civil code. "We are at a stage where we must unify and consolidate the nation by every means without interfering with religious practices. If, however, the religious practices in the past have been so construed as to cover *the whole field of life*, we have reached a point where we must...say that the matters are not religious, they are purely matters for secular legislation." Quoted in Robert D. Baird, *Religion in Modern India* (New Delhi: Manohar, 1981), p. 423, emphasis added.
- 24 *Yagnapurushdasji v. Muldas*, at 513.
- 25 This needs to be qualified in a way that incorporates an important insight appearing in Marc Galanter's discussion of caste in India. He maintains that it may make a great difference whether the characterization "religious" is attached to caste groups within a legal context, arguing that actual behavior,

and thus real reform, could hinge upon such a determination. Galanter, *Law and Society in Modern India*, p. 141. The Constitution itself provides a negative judgment about caste, but since compliance with constitutional injunctions are rarely automatic, decisions about whether the origins of caste are rooted in religious or racial considerations become relevant to the work of the courts. For an intriguing view of why Hindus often assert to Westerners that caste is a social rather than a religious matter, see Dumont, *Homo Hierarchicus*, p. 25. As a rank amateur in this area, I express no opinion on the question of origins, but feel safe in simply acknowledging the deeply interwoven nature of caste and religion as they have evolved over the centuries. I would note, too, in this regard, Donald Smith's observation that it is a relatively recent phenomenon for caste to be repudiated as a Hindu religious value, and that this repudiation has had little effect upon the ordinary Hindu's acceptance of the divinely ordained character of the institution. Donald Eugene Smith, *Religion and Political Development* (Boston: Little, Brown, and Co., 1970), p. 35. Robert D. Baird is similarly of the view that caste, for all of the sociological interest it has engendered, is ultimately a phenomenon sanctioned by religion." Robert D. Baird, "Human Rights Priorities and Indian Religious Thought," *Journal of Church and State* 11 (1969), p. 225.

²⁶ Charles H. Heimsath, *Indian Nationalism and Hindu Social Reform* (Princeton: Princeton University Press, 1964), p. 326.

²⁷ The entrenched character of Hinduism in the social fabric of Indian society is a description widely accepted in a variety of literatures. Social theorists: Charles Y. Glock and Rodney Stark, *Religion and Society in Tension* (Chicago: Rand McNally, 1965) p. 34; S.N. Eisenstadt, ed., *The Protestant Ethic and Modernization: A Comparative View* (New York: Basic Books, 1968), p. 34; Charles P. Loomis and Zona K. Loomis, eds., *Socio-Economic Change and the Religious Factor in India: An Indian Symposium on Max Weber* (New Delhi: Affiliated East-West Press, 1969), p. 79. India specialists: Myron Weiner, "The Politics of South Asia," in Gabriel A. Almond and James S. Coleman, eds., *The Politics of the Developing Areas* (Princeton: Princeton University Press, 1960), p. 178; Robert Stern, *Changing India: Bourgeois Revolution on the Subcontinent* (Cambridge: Cambridge University Press, 1993), p. 24. And legal scholars: Derrett, *Religion, Law and the State in India*, p. 57; Dhirendra K. Srivastava, *Religious Freedom in India: A Historical and Constitutional Study* (New Delhi: Deep and Deep Publications, 1992), p. 103; C. H. Alexandrowicz, "The Secular State in India and the U.S.," *Journal of the Indian Law Institute* 2 (1960): 273-296, p. 283. All of these perspectives generally share a consensus in highlighting the profound extent to which the religions of India — in particular, Hinduism — are solidly embedded in the existent social structure.

- 28 T. N. Madan, "Secularism In Its Place," *Journal of Asia Studies* 46: 747-759 (1987), p. 749.
- 29 P.C. Chatterji, *Secular Values for Secular India* (New Delhi: Pauls Press, 1984), p. 23.
- 30 Rajeev Dhavan, "Religious Freedom in India," *American Journal of Comparative Law* 35: 209-254 (1987), p. 250.
- 31 Alexis de Tocqueville, *Democracy in America* (New York: Vintage, 1945), Vol. I, p. 310.
- 32 For a very good elaboration of Tocqueville's point as applied to India, the work of another French sociologist, Louis Dumont, *Homo Hierarchicus*, is an excellent place to go. His principal focus on the tension between the principle of equality and the principle of hierarchy is one that has a distinctly Tocquevillian ring to it. The decisive role of religion in this tension was affirmed in the very important official government report of the Mandal Commission, which was established in 1979 to investigate the conditions of the socially and educationally backward classes in India. That report indicates clearly that social inequality is deeply rooted in religious practices, and that the structural reality created by this history cannot be changed through the routine progress of modernization. See the discussion of the Mandal Commission Report in *Sawhney v. Union of India* (1992).
- 33 By this I am referring only to the socio-economic configuration of the majority Jewish population. Obviously, Jewish - Arab relations are associated with religious differences, and in this sense there surely is a regulative culture decisively at work.
- 34 Lilly Weissbrod, "Religion As National Identity In a Secular Society," *Review of Religious Research* 24 (1983), p. 190.
- 35 Daniel J. Elazar and Janet Aviad, "Religion and Politics in Israel," in Michael Curtis, ed., *Religion and Politics in the Middle East* (Boulder: Westview Press, 1981), p. 195.
- 36 There are of course strong, articulate, and passionate voices on behalf of a strict separation of state and religion, but they possess quite limited appeal. Perhaps the most controversial is the late Yeshayahu Leibowitz, whose argument for separation was grounded in an understanding of the thickness of the Jewish religion, the fact that "the regime of the Torah...constituted a way of life." Yeshayahu Leibowitz, *Judaism, Human Values, and the Jewish State* (Cambridge: Harvard University Press, 1992) p. 162. For Gershon Weiler, on the other hand, it is to "escape the yoke of the Torah" that requires Israelis to accept "the principle that the religion of a person must be of no interest to the State." Gershon Weiler, *Jewish Theocracy* (Leiden, E.J. Brill, 1988), pp. 224, 234. For Leibowitz, separation preserves the integrity of Judaism; for Weiler, the integrity of the State.

³⁷ Austin, *The Indian Constitution*, p. xiii.

³⁸ I emphasize closure in order to highlight the contrast with the Israeli experience. The Knesset's deliberations over the constitutional question concluded with the passage of a compromise proposal, known as the "Harari Resolution," that prescribed a process of incremental accumulation of individual chapters — or basic laws — that when terminated will together form the state constitution. This vaguely worded and much criticized legislation left unclear the status of the basic laws (of which there are presently eleven), just as it was silent as to a timetable for completion of the constitution. It provided formal commitment (sincere or otherwise) to the principle of a written constitution, while maintaining maximum flexibility in the Knesset's capacity to determine its realization. It was essentially a formula to proceed "with all deliberate speed," although it lacked any method to enforce compliance. It left the state with an evolving constitution that conceivably possesses superior status to ordinary law, but which, predictably, coexists uneasily with the tradition of parliamentary supremacy.

³⁹ It is worth noting that opposition to the adoption of a formal written constitution represented an interesting alliance, consisting on the one hand of extreme secularists such as David Ben-Gurion, and on the other of ultra-Orthodox Jews, who maintained that Israel had no need of *another* constitution, the Torah being a more than adequate fundamental law. Indeed, it was the radically different understandings of the essence of the regime held by these alliance partners that suggests the great dilemma inherent in one of the principal arguments of the document's proponents — that it should serve as a pedagogical device for educating a diverse population in the political principles of the regime. Nevertheless, it is incorrect to suggest that Israel functions without a constitution. With the Declaration of Independence (often appealed to by the Supreme Court), sacrosanct legislation such as the Law of Return (entitling Jews emigrating to Israel automatic citizenship), and the Basic Laws (some of which have been interpreted as entrenched), there is in place the functional equivalent of a formal constitutional document. Much debate, of course, occurs over the question of how well this arrangement actually performs its functions.

⁴⁰ *Rufeisen v. Minister of Interior*, 16 P.D. 2428, at 2437, 1962. This phrase is reminiscent of language used by the U.S. Supreme Court in a case that recalls a period in American history when racial qualifications were very much a part of the naturalization process. (Such qualifications were eliminated by the Immigration and Nationality Act of 1952.) The matter at issue concerned the qualifications of a Hindu, who, while technically a Caucasian, was not, according to Justice Sutherland, white in the "understanding of the common man." *United States v. Thind*, 261 U.S. 204, at 209, 1923. I have discussed the Brother Daniel case at length in

another place. Gary Jeffrey Jacobsohn, *Apple of Gold* (Princeton: Princeton University Press, 1993), pp. 63-69. A recent episode in Israel is a vivid reminder of the continuing salience of the issues in that case. It involved the visit to Jerusalem of the Archbishop of Paris, Jean-Marie Cardinal Lustiger, who claimed in his various appearances in Israel to be a Jew. The Cardinal had converted to Christianity as a boy in Europe, a fact that did not in his estimation invalidate his self-identification with the Jewish people. His claim was widely denounced by both orthodox and secular Jews in Israel, to which he responded: "I am as Jewish as all the other members of my family who were butchered in Auschwitz or in the other camps." N.Y. Times, April 4, 1995.

⁴¹ *Rufeisen v. Minister of Interior*, at 2438.

⁴² Charles Silberman, *A Certain People: American Jews and Their Lives Today* (New York: Summit Books, 1985), p. 70. Silberman's elaboration is not fully consistent with the *Rufeisen* decision, but it speaks to a distinction directly relevant to the distinctions made in this essay. "[O]ne is a Jew by virtue of one's birth, not one's beliefs or practices. Thus it is that Protestants speak of *joining* a particular church and Catholics of *becoming* a Catholic, whereas Jews speak of *being* Jewish; for Jewishness is an existential fact." Silberman, *A Certain People*, pp. 72-3. In this regard, it is worth noting the similarities to Hinduism, which like Judaism, is often identified (for all sorts of purposes, good and bad) with the story of a particular nation. More important, Hinduism is also not defined by particular beliefs and practices, a reality even more pronounced in India, where the absence of an official, institutionalized religious hierarchy accentuates the heterogeneity of Hindu doctrine and behavior.

⁴³ Stephen Sharot, "Judaism and the Secularization Debate," *Sociological Analysis* 52 (1991), p. 271.

⁴⁴ *Rufeisen v. Minister of Interior*, at 2447.

⁴⁵ Church/State relations in Israel are often characterized with reference to the "status quo," a term referring to a compromise agreement between secular and religious forces that goes back to the inception of the State. As a result of the agreement, religious law has been accorded a limited presence in the life of the State. It is easiest to view the arrangement as a standard splitting of the difference, in which both sides settle for as little or as much as they can get away with. This is misleading, however, as it fails to convey a more principled side of the status quo as "one of the unique and prime factors ensuring the Jewish character of the State of Israel." Ben-Zion Eliash, "Ethnic Pluralism or Melting Pot: The Dilemma of Rabbinical Adjudication in Israeli Family Law," *Israel Law Review* 18 : 348-380 (1983), p. 349. The debate over how to characterize this agreement, implicating as it does theological and nationalist dimensions of Judaism, is emblematic of "the crisis of Jewish identity." As Peter

Berger aptly puts it: "The Zionist attempt to redefine Jewishness in terms of a *national identity*...has the ambivalent character of, on the one hand, reestablishing an objective plausibility structure for Jewish existence while, on the other hand, putting in question the claim of religious Judaism to being the *raison d'être* of Jewish existence — an ambivalence manifested in the ongoing difficulties between 'church' and state in Israel." Peter L. Berger, *The Social Canopy: Elements of a Sociological Theory of Religion* (Garden City: Doubleday, 1967), pp. 69-70. For further insight into the intertwining of nationalistic elements and religious practices in Israeli Jewish and political cultures see Ephraim Tabory, "Hate and Religion : Religious Conflict Among Jews in Israel," *Journal of Church and State* 11: 275-283 (1981), p. 280. In general see Charles S. Liebman and Eliezer Don-Yehiya, *Religion and Politics in Israel*. And for additional insight into the complexity of the relationship between nationalism and religion in Israeli political culture, consider the reaction in Israel to the assassination of Prime Minister Yitzhak Rabin. Secular Jews were especially outraged that Rabin's killer was an orthodox Jew. For many the slain leader had become "an icon in a new kind of national religion." (*New York Times*, November 19, 1995, "Secular Israelis, Too, Have a Faith," sec. 4, p. 4). Yet despite the backlash against the orthodox, particularly among young Israelis, a mass movement to get alternative branches of Judaism recognized is unlikely to occur. As the *New York Times* pointed out, "the State itself seems to be enough of an organization to let these young identify themselves as Jews."

- 46 There have been many empirical studies of Jewish religious commitment in Israel, all of which suggest that for the great majority of Israelis being Jewish plays an important role in their lives (in different ways) but is not a way of life. Many of these findings are included in Zvi Sobel and Benjamin Beit-Hallahmi, eds., *Tradition, Innovation, Conflict: Jewishness and Judaism in Contemporary Israel* (Albany: State University of New York Press, 1991).

47 Smootha, *Israel: Pluralism and Conflict*, p.

48 Yoav Peled, "Ethnic Democracy and the Legal Constitution of Citizenship: Arabs Citizens of the Jewish State," *American Political Science Review* 86: 432-443 (1992), p. 435.

49 Peled, "Ethnic Democracy," p. 432.

50 Liebman and Don-Yehiya, *Religion and Politics in Israel*, p. 48. David Kretzmer suggests that the maintenance of the distinction between rights and privileges is at the root of the otherwise inexplicable Population Registry Law, which requires that all citizens of Israel be registered by "nation." "Registration of 'nation' is irrelevant in determining the rights and obligations of citizens, but it strengthens the dichotomy between the state as the political framework of all its citizens, and the state as the

particularistic nation-state of the Jewish people." David Kretzmer, *The Legal Status of the Arabs in Israel*, p. 44.

- 51 By this I do not mean to suggest that there was *no* ameliorative dimension involved in the realization of Zionist aspirations. Indeed, to the extent that the Jewish national movement's historic roots can be traced to rebellion against traditional Judaism, its hopes for a Jewish State in Israel were implicated in a project in social reconstruction. See in this regard Raphael Cohen-Almagor, "Cultural Pluralism and the Israeli Nation-Building Ideology." *International Journal of Middle Eastern Studies* 27 (1995), p. 465. But the contrast with India in this regard represents a difference in kind and not merely magnitude.
- 52 Christophe Jaffrelot, *The Hindu Nationalist Movement in India*, p. 13. See also Sumit Sarkar, "Indian Nationalism and the Politics of Hindutva," in David Ludden, ed., *Contesting the Nation: Religion, Community, and the Politics of Democracy in India* (Philadelphia: University of Pennsylvania Press, 1996), p. 277. "The votaries of Hindutva have tended to come in the main from high castes quite self-conscious about their status privileges..."
- 53 Jaffrelot, p. 47.
- 54 Jaffrelot, p. 435.
- 55 Sumit Sarkar, "Indian Nationalism and the Politics of Hindutva," p. 289.
- 56 Stephen Sharot, "Judaism and the Secularization Debate," p. 257.
- 57 *Manohar v. Nitin Bhaurao Patil & Anr.*, JT 1995 (8) S.C. 646, at 684.
- 58 Asutosh Varshney, "Contested Meanings," p. 231. This is also clear from the writings of the important Hindualist theorist, Madhav Sadshiv Golwakar. "Non-Hindus must be assimilated to the Hindu way of Life." Quoted in Sumit Sarkar, "Indian Nationalism and the Politics of Hindutv." p. 289.
- 59 Gershon Weiler, *Jewish Theocracy*, p. 235.
- 60 Eric Cohen, "Citizenship, Nationality and Religion in Israel and Thailand," Baruch Kimmerling, ed., *The Israeli State and Society: Boundaries and Frontiers* (Albany: State University of New York, 1989), p. 68.
- 61 Eric Cohen, "Citizenship, Nationality and Religion in Israel and Thailand," Baruch Kimmerling, ed., *The Israeli State and Society: Boundaries and Frontiers* (Albany: State University of New York, 1989), p. 87.
- 62 Eric Cohen, "Citizenship, Nationality and Religion in Israel and Thailand," Baruch Kimmerling, ed., *The Israeli State and Society: Boundaries and Frontiers* (Albany: State University of New York, 1989), p. 70.