

THE NATURE OF THE REPUBLIC

Relevant for: Indian Polity | Topic: Comparison of Indian Constitutional System with that of other Countries - Parliamentary & Presidential Systems of Governance

France is once again in the news after the gruesome murder of Samuel Paty, a French middle-school teacher, on October 16 in Conflans-Sainte-Honorine, a suburb of Paris. Paty was beheaded in what is apparently an act of Islamist terrorism. French President Emmanuel Macron has paid tribute to Paty, calling him a “quiet hero” and said he was targeted because he “embodied the Republic”, taught pupils “to become citizens” and “fought for freedom and reason”.

This brings us to the nature of the French Republic. Former French President Jacques Chirac (now deceased) during his tenure commissioned an expert enquiry into what precisely secularism in practice should be. Bernard Stasi presented his report in December 2003, based on which a fresh secular law was passed by the French National Assembly in March 2004. It brought up to date the law of 1905.

The new Act defined three essential principles: Freedom of conscience, equality in law for spiritual and religious belief, and neutrality of political power. In other words, there are in any modern state, three sets of relations: (a) religion and the individual; (b) the state and the individual, and; (c) the state and religion. In (b) the state views the individual as a citizen and not as a member of a religious group. The implication of (c) is that religion and state function in two separate areas of human activity. Donald Smith, a scholar from the University of Calgary, has compared the above relations as three sides of a triangle. And the integrity of (a) and (b) is largely determined by the third relationship, which separates them. Therefore, for any state to function as a secular state, there must be a wall of separation between state and church.

The French law attempted to implement these principles. It had not abolished the wearing of either Jewish skull caps or Muslim headscarves. All it ordained was that the students attending government schools or employees working in government offices must not display religious symbols of a conspicuous nature, which would include even a large cross. There is no restriction on wearing any form of dress or display of any religious symbols in the country at large. The state, however, has to maintain absolute neutrality between one religion and another. The French insistence on the absolute separation of church and state goes back to 1905 — in December that year, a Republican law was passed by the country’s National Assembly. Article 1 assures the liberty of conscience. It guaranteed the free exercise of religious beliefs. The only restrictions were decreed in the interest of public order. Article 2 states that the Republic does not recognise either salaries paid or subsidies granted to any religious group.

The Stasi Report stated that Islam is believed to be incompatible with secularism. This was a provocation in the report and the subsequent passing of the legislation. As far as private employers of schools are concerned, the law is that the will of the institution would prevail and not any idiosyncrasy of the employee. The intention behind the stipulation is to ensure that there is no discrimination against members of any religion, so that an employer does not avoid the appointment of a scarf-wearing woman or a skull-cap wearing man. These provisions ensure not only the neutrality of political authority but also the freedom of conscience and belief as well as equality before the law. The Stasi Report also emphasised secularism as a cornerstone of democracy.

The rise of Christianity led to the problem of church and state. The Bible recognised a basic duality — the temporal and the spiritual. This is best expressed in the well-known phrase:

“Render therefore unto Caesar the things that are Caesar’s; and unto God the things that are God’s.” In the US, an attempt was made at the complete separation between church and state. The American constitution contains no reference to God. Article VI says that no religious test shall ever be required as a qualification to any office. The first amendment to the Constitution adopted in 1791 explicitly said: “Congress shall make no law respecting an establishment of religion”.

India never had a centralised institution to regulate religion nor did it ever interfere in the running of the state. Islam, on the other hand, does not separate the temporal from the spiritual. The ultimate evidence of this was that the Caliph, or the representative of Prophet Mohammed, was the spiritual head and the temporal chief rolled into one.

France did not fully separate church and state until the passage of its 1905 law. Today, secularism is a core concept in the French constitution, Article 1 of which formally states that France is a secular republic. This, however, does not prevent the state from playing an active role in the appointment of Catholic diocesan bishops. Thus, the French president is the only head of state who still appoints some Catholic bishops.

Former President Nicolas Sarkozy differed from this French constitutional tradition and saw France’s main religions as making positive contributions to society. He visited the Pope in December 2007 and publicly acknowledged France’s Christian roots. Pope Benedict XVI commented that it is important to become more aware of the irreplaceable role of religion for the formation of conscience and the contribution it can bring to the creation of a basic ethical consensus within society.

A law was passed on April 11, 2011, with strong support from political parties as well as from Sarkozy, which made it illegal to conceal one’s face in public spaces, affecting a few thousand women in France wearing the niqab and the burqa. Scholar Olivier Roy has argued that the burkini bans and secularist policies of France provoked religious violence, to which Gilles Kepel responded that Britain has no such policies and suffered a greater number of attacks in 2017 than France.

The writer was a Rajya Sabha MP from the [BJP](#)

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