ORGANIZED BY

Sri Dharamasthala Manjunatheshwara (S.D.M.) Law College
(Mangalore, India)

S.D.M. Centre for Post Graduate Studies and Research in Law
(Mangalore, India)

Research Centre Vergelijkende Cultuurwetenschap
(Ghent University, Belgium)

Centre for the Study of Local Cultures & P.G.D. of Law
(Kuvempu University, India)

Department for the Study of Religions
(The University of Pardubice, Czech Republic)

India Platform UGent
(Ghent University, Belgium)

"Rethinking Religion in India IV"

SECULARISM, RELIGION AND LAW

24 – 27 NOVEMBER 2012

MANGALORE, INDIA

www.rethinkingreligion.org

“Rethinking Religion in India IV”

This conference has been made possible with the financial and logistic support of

Sri Dharamasthala Manjunatheshwara (S.D.M.) Law College (Mangalore, India)

Kuvempu University

Ghent University

India Platform

IINDICUS (Institute for Indigenous Cultures and Studies)

The Flemish Inter-University Council (VLIR)

World Konkani Centre

“Rethinking Religion in India IV”

Contact details

Marianne Keppens
Marianne.Keppens@UGent.be
+91 - 9535783652

Sandeep Kumar Shetty
sankushetty@india-platform.org
+91 - 8147953299

Ravindra B.K.
sdmlaw@gmail.com
+91 - 9448158863

Tharanatha Shetty
tharanathashetty99@yahoo.com
+91 - 9449371918

Organizing Committee

Dharmadhikari Dr. D. Veerendra Heggade, S.N. Balagangadhara, Ravindra B.K., Tharanatha Shetty, Sarah Claerhout, Nele De Gersem, Jakob De Roover, Marianne Keppens, Emanuel Maes, Alexander Naessens, Somashekar B.S., Sandeep Kumar Shetty, Rajaram Hegde, J.S. Sadananda, Peter Zwertvagher, Martin Fárek, Dinesh Shenoy

With the help of the faculty and students of S.D.M. Law College

“Rethinking Religion in India IV”

Rethinking Religion in India IV will be inaugurated by

Inauguration
Most Rev. Dr. Aloysius Paul D’Souza, Bishop, Dioceses of Mangalore

Key note
Prof. Balagangadhara Rao, Director, India Platform UGent, Belgium

Guest of Honour
Mr. Charly Poppe, First Secretary, the Embassy of Belgium in New Delhi

Chief Guest
Dr. B. Yashovarma, Secretary, SDME Society, Ujire

Chief Guest
Prof. S. Prabhakar, Vice President, SDME Society, Ujire

President
Honourable B. Suresh Kumar,
Minister of Law and Parliamentary affairs, Govt. of Karnataka, Bangalore

Room: Auditorium
SATURDAY 24 NOVEMBER, 10.30 – 13.30

“Rethinking Religion in India IV”

Conference venue

Sri Dharamasthala Manjunatheshwara (S.D.M.) Law College
M.G. Road, Kodialbail
MANGALORE - 575 003
Karnataka

www.sdmlc.org

Lunch and refreshments

A vegetarian lunch, as well as morning and afternoon tea with snacks, will be served for all conference participants at the venue.

Rethinking Religion in India on facebook

All conference participants are invited to join our Rethinking Religion in India Facebook page and post any remarks, reflections, questions during and after the conference:

www.facebook.com/rethinkingreligion

Table of Contents

Welcome

Welcome to the fourth conference of the five-year conference cluster Rethinking Religion in India!

In January 2008, the first edition in Delhi initiated the five-year conference cluster by questioning the current theoretical framework for the study of religion and tradition in India. We continued the discussion in a second conference in 2009, which focused on the Indian debate on secularism and communal conflict. The third conference, which took place in the Czech Republic in 2011, revolved around the theme of European Representations and Indian Responses.

During the last three RRI conferences, we tried three different strategies to generate discussions and debates about the future course of research, which is what, in an ideal world, such conferences are about.

In our first attempt, we formulated the major question as the theme of the RRI conference itself: 'Are there 'native' religions in India?' The platform participants were expected to answer this question and outline their answers, and also indicate the lines of settling disputes while suggesting how research should proceed. We failed: the platform participants simply rode their hobby horses instead of addressing themselves to the task at hand.

In our second attempt to organize the conference to facilitate meaningful exchange, we took to formulating some specific questions about secularism in India and insisting that the answers and the ensuing discussions followed strict rules of rational dialogue (as formulated by the best available theory on argumentation theory in the market place). Actually, instead of the proponents and the opponents following these dialogical rules, the debate became a quasi-shouting match. Attempts to prevent this gave us mere monads busy with their own monologues.

During our last attempt, we took a different approach. We formulated questions for each day of the platform discussion around the general theme of western conceptualizations of Indian religions and the Indian responses that they elicited, while suggesting that participants focus on answering the questions raised by the organizers. Even though this attempt was more successful than the previous ones, it did not generate the kind of dialogue that conferences need: neither the minds nor the answers to the questions met each other in any meaningful way.

Hence this fourth revision to the format of the platform discussion: this year, we will have one presentation of a short paper on a specific theme about the relation between religion and law each day and we shall seek experts to respond and react to the paper. It is the hope of the organizers that this format will prove to be more successful in generating intellectual dialogue and discussion than the previous three experiments.

The Roundtable Sessions will explore the theme of religious and communal violence in light of the overall conference theme of secularism and law. Three presentations will be followed by responses from a group of eminent experts.

In the Parallel Paper Sessions scholars from different parts of the world share their research findings and reflections on the following themes: The Colonial Construction of Hinduism; The Caste System and Indian Religion; Secularism in Europe and India; Religious Conversion in India; Religious and Communal Violence; Religion and Law. The 'How to…?' workshops will challenge the audience to think about the issue of 'How to teach about the Indian traditions?'

And last but not least, there will be two releases: on the evening of the first conference day the book *Reconceptualizing India Studies* written by S.N. Balagangadhara will be released and on the last day the S.D.M. Journal *Legal Opus* will be released followed by Ashirvachana by Dr. Veerendra Heggade.

Let us make this into a wonderful four days of joint reflection and open debate.

Well-wishing word by **Dharmadhikari, Dr. D. Veerendra Heggade**

I am delighted to know that the Ghent University, Belgium has come forward to conduct the International Conference on "Rethinking Religion in India IV" in association with S.D.M. Law College and the Centre for Post Graduate Studies and Research in Law. I am impressed to know that delegates from all over the world will be attending the conference and discuss on various issues which are mind boggling. The areas such as Religion and Law, Religion and Communal violence, Secularism in India and Europe etc. are the interesting areas to be discussed. I am convinced that stalwarts of the field as well as delegates will deliberate effectively and disseminate the information to the public at large including press and media.

I congratulate Dr. Balagangadhara and his team for identifying our college which is imparting quality legal education from the last thirty eight years.

I on behalf of the entire management wish the conference every success and my regards may be conveyed to all the dignitaries who are attending the Conference. I pray to Lord Manjunatha Swamy for the success of this International Conference and extend a warm welcome to all the delegates and resource persons and at the same time it is my privilege to invite all of you to Dharmasthala and take blessings of Lord Manjunatha Swamy and Dharmadevathas.

Dr. D.Veerendra Heggade
Dharmadhikari,
Dharmasthala

Release of the **The S.D.M. Journal** *Legal Opus*

Legal Opus is the Premier Legal Journal of the S.D.M. Department of Post Graduate and Research Studies in Law. The past seven issues of Legal Opus contained thought provoking legal articles touching contemporary system of law and legal institutions. It has earned the laurels from both critics and well-wishers.

Followed by **Ashirvachana** by Dr. D. Veerendra Heggade, Dharmadhikari, Shri Kshethra Dharmasthala

ROOM: CONFERENCE HALL
Tuesday 27 November, 11.15-13.15

Book Release *Reconceptualizing India Studies* **S.N. Balagangadhara**

What does it mean to be an Indian in this time and age? What does India have to give to the contemporary world? These overarching questions that echo in the mind of the post-colonial Indian cannot be truly answered by Western frameworks instituted at the behest of colonialism.

This book sets the stage for a reconceptualization of India studies. Clearing away intellectual deadwood, it initiates a process of comparative study of cultures. The volume scrutinizes the Western studies on India, including contemporary writings on Hinduism, the nature of inter-cultural dialogues, and their implications for normative political philosophy.

S.N. Balagangadhara puts forth the case to translate Indian traditions to the twenty-first century idiom. He urges the need to analyse and understand Indian contributions to human knowledge.

Opening speech
Mr. Charly Poppe, First Secretary, the Embassy of Belgium in New Delhi, India

Introduction of the author
Dr. Jakob De Roover, Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium & Dr. Rajaram Hegde, Centre for the Study of Local Cultures, Kuvempu University, India

Speeches about the book

Prof. Naomi Goldenberg, Department of Classics and Religious Studies, University of Ottawa, Canada & Dr. Prakash Shah, School of Law, Queen Mary, University of London, UK

ROOM: CONFERENCE HALL
Saturday 24 November, 17.30 - 19.30

CONFERENCE AT A GLANCE
24 - 27 November 2012

Rethinking Religion in India IV
Secularism, Religion & Law

Saturday 24 November	Sunday 25 November	Monday 26 November	Tuesday 27 November
9.00-10.30 : *Registration*	9.00-11.00 : *Parallel Paper Sessions 1* The Colonial Construction of Hinduism 1 **Seminar Room 1** Religion and Law 1 **Seminar Room 2** Religious and Communal Violence 1 **Seminar Room 3** Secularism in Europe and India 1 **Seminar Room 4** Gender and Law **Seminar Room 5** Special S.D.M. panel: Caste System and Indian Religion **Seminar Room 6**	09.00-11.00 : *Parallel Paper Sessions 2* Religion and Tradition **Seminar Room 1** Religion and Law 2 **Seminar Room 2** The Colonial Construction of Hinduism 2 **Seminar Room 3** How to teach about the Indian traditions? **Seminar Room 4** Special S.D.M. panel: Secularism and Law **Seminar Room 5** Special S.D.M. panel: Religious and Communal Violence **Seminar Room 6**	9.00-11.00 : *Parallel Paper Sessions 3* Rethinking the Caste System **Seminar Room 1** Religion and Law 3 **Seminar Room 2** Religious and Communal Violence 2 **Seminar Room 3** Secularism in Europe and India 2 **Seminar Room 4** Special S.D.M. panel: Religion, Law and Conversion **Seminar Room 5** Special S.D.M. panel: Religion and Law **Seminar Room 6**
	11.00-11.15 : Tea break	11.00-11.15 : Tea break	11.00-11.15 : Tea break
10.30-13.30 : *Welcome and inauguration* **Auditorium**	11.15-13.15 : *Roundtable Session 1* Communal Violence and Colonial Consciousness **Auditorium**	11.15-13.15 : *Roundtable Session 2* Gandhi's Secularism: Religion in "Public" and in "Private" **Auditorium**	11.15-13.15 : *Release of the journal* Legal Opus *followed by Ashirvachana by Dharmadhikari Dr. D. Veerendra Heggade* **Conference Hall**
13.30-14.30 : Lunch	13.15-14.30 : Lunch	13.15-14.30 : Lunch	13.15-14.30 : Lunch
14.30-16.00 : *Platform Session 1* Religion & Law **Conference Hall**	14.30-16.00 : *Platform Session 2* Religion & Law **Conference Hall**	14.30-16.00 : *Platform Session 3* Religion & Law **Conference Hall**	14.30-16.30 : *Roundtable Session 3* *Comparative Law* **Auditorium**
16.00-16.15 : Tea break	16.00-16.15 : Tea break	16.00-16.15 : Tea break	16.30-16.45 : Tea break
16.15-17.00 : *Platform Session 1 (continued)* **Conference Hall**	16.15-17.00 : *Platform Session 2 (continued)* **Conference Hall**	16.15-17.00 : *Platform Session 3 (continued)* **Conference Hall**	16.45-17.30 : *Closing Address and Valedictory Ceremony* **Conference Hall**
17.00-17.30 : Tea break			
17.30-19.30 : *Book Release* Reconceptualizing India Studies **Conference Hall**		17.30-18.00 : *Cultural Programme brought by the students of S.D.M. College*	

PLATFORM SESSIONS
'RELIGION AND LAW'

Platform Session 1:
Saturday, 24 November, 14.30-17.00
Platform Session 2:
Sunday, 25 November, 14.30-17.00
Platform Session 3:
Monday, 26 November, 14.30-17.00

Moderator: Naomi Goldenberg
Room: Conference Hall

The Platform Speakers

Werner Menski is Professor of South Asian Laws at the School of Law as well as Chair of the Centre for Ethnic Minority Studies at SOAS, University of London, UK. Some of his most important works are: Comparative Law in a Global Context: The Legal Systems of Asia and Africa. (Cambridge University Press, 2006); Hindu Law: Beyond Tradition and Modernity (Oxford University Press, 2003); Modern Indian Family Law (Curzon Press, 2000); Public Interest in Litigation in Pakistan. (with Alam, R. and Raza, M., Platinum, 2000) and Muslim Family Law (with Pearl, D., Sweet & Maxwell, 1998).

Steven D. Smith is Warren Distinguished Professor of Law at the University of San Diego as well as Co-Executive Director of the Institute for Law & Religion and the Institute for Law & Philosophy of the same university. His areas of expertise are law and religion, constitutional law, and torts. Among his most important works are The Disenchantment of Secular Discourse (Harvard University Press, 2010); Law's Quandary (Harvard University Press, 2004); The Constitution and the Pride of Reason (Oxford University Press, 1998) and Foreordained Failure: The Quest for a Constitutional Principle of Religious Freedom (Oxford University Press, 1995).

Prakash Shah is Senior Lecturer at the School of Law at Queen Mary, University of London. He specialises in legal pluralism, religion and law, ethnic minorities and diasporas in law, immigration, refugee and nationality law, and comparative law with special reference to South Asia. He has edited the volume Law and Ethnic Plurality: Socio-Legal Perspectives (Martinus Nijhoff, 2007) and has published widely on his field of expertise.

S.N. Balagangadhara is Professor in Comparative Science of Cultures and Director of the Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium. He also directs the India Platform UGent. His most important works are 'The Heathen in His Blindness…': Asia, the West and the Dynamic of Religion first published in 1994 by Brill and republished by Manohar Publications in 2005 and Reconceptualizing India Studies recently published by OUP India.

Robert A. Yelle is Assistant Professor at the Department of History at the University of Memphis. Most of his work as an historian of religions has focused on three topics: religious ritual as a mode of communication or rhetoric; the historical and structural relations between law and religion; and secularization or "disenchantment" as an historical process in the evolution of religion and society. His mort important work is Explaining Mantras: Ritual, Rhetoric, and the Dream of a Natural Language in Hindu Tantra (Routledge, 2003).

The Platform Paper

S.N. Balagangadhara

By Way of an Introduction

It is important to set the stage for the current format of the platform session before delving into its contents. During the last three RRI conferences, we tried three different strategies to generate discussions and debates about the future course of research which is what, in an ideal world, such conferences are about.

In our first attempt, we formulated the major question as the theme of the RRI conference itself: 'Are there 'native' religions in India?' The platform participants were expected to answer this question and outline their answers, and also indicate the lines of settling disputes while suggesting how research should proceed. We failed: the platform participants simply rode their hobby horses instead of addressing themselves to the task at hand.

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Delving into the Contents

Setting the Contexts

The RRI conferences build on research results, which have been available for intellectual scrutiny for more than two decades now. Of these, two are of crucial importance. One: Western culture is the child of the internal dynamics of the Christian religion and, therefore, we cannot understand this culture or its institutions if we do not develop an understanding of what religion is and how and why Christianity is a religion. Two: if the Semitic religions are examples of what religion is, then India has never had any 'native' religions. That is, we believe that cultures exist without having 'native' religions and that India is one such culture. Even though these two results are, in some senses, presupposed, the RRI conferences seek to subject these claims to tests through a choice of appropriate themes and questions. This is the first context.

The second context. The western institutions of law depend non-trivially upon the presence and existence of religious (and even theological) ideas to make much sense to a people. Where religions are absent, there, in such cultures that is, introduction of these legal institutions lead to their deformation in ways that the 'creators' of such institutions would not have been able to imagine. In the platform sessions, we shall explore this rather vaguely

formulated hypothesis in terms of three themes each of which will be dealt with in one session. Here, the following fact is presupposed: British colonialism introduced the western institutions of law in the Indian culture. We shall not look at the desirability or otherwise of this phenomenon: we need to understand the nature of western legal institutions properly before we can judge their 'value' to Indian culture and society.

The third context. Even though both the phenomenon colonialism and its act of introduction of legal institutions in India are centuries old, no student of culture, whether Indian or Western, has raised the question of the relationship between Law and Indian culture in any serious way. The reasons for this neglect are many and what interests us is its effect now: it is left to an amateur to raise these questions to an expert panel. Being neither a trained lawyer nor a jurist, a philosopher by training is going to raise themes about law and religion the way he sees it in his capacity as a student of culture. Despite the nature of such an encounter, there is a noble hope guiding this endeavor: perhaps, this will be the beginning of the kind of research so sorely needed today.

Theme 1: On Truth and Falsity in Law, Religion and Culture

Whatever their merits in other spheres of social interaction, the notions of truth and falsity play an extremely crucial role in Law. There are laws intended to punish falsity even if those are specific in nature (e.g. laws governing forgery and creation of false documents and currency), there are punishments for lying in certain circumstances (perjury, for instance) and the testimony of eye-witnesses is crucial in different kinds of trials. 'Bearing false witness' is a religious prohibition in Christianity (and Judaism) and is considered a heinous religious transgression. The notions of truth and falsity are not theoretical terms in the sense that they do not carry a technical meaning as defined in some specific branch of Law or in the sense that they are specifically jurisprudential terms. Legal language works with normal meanings of these words as they are connoted by these natural language terms. In order to understand their semantic scope then, we need to look at their meanings in natural languages and their common history.

The Oxford English Dictionary provides us with two core meanings of the term 'falsity'. On the one hand, being the opposite of truth, it carries the following meanings: insincerity, deceitfulness and is of a counterfeit character. On the other hand, possessing such character, it also involves treachery and fraud. When the word 'false' is used as an adjective, apart from being 'wrong and erroneous', it carries the meanings of being mendacious, deceitful and treacherous. Equally, the notion of 'truth' carries meanings like 'faithfulness', 'fidelity', 'loyalty' and 'constancy'. These meanings are also carried over into the notion of 'trust', leading to the suggestion that 'truth' and 'trust' are intimately connected to each other.

These associations of meanings have their roots both in Christianity and the impact of its theology on the Latin language. The Latin word 'Falsum' (lie or falsehood) has 'deceit' as its core meaning; lying involves (at its core) the intent to deceive and thus implies untrustworthiness. Because the impact of Latin on the languages of continental Europe is more pronounced, the core meaning of 'falsum' (Latin Christianity) has completely seeped into the natural languages of Europe, English included.

Compared to these core meanings, there is also another set of meanings of 'truth' and 'falsehood'. This is better called the 'philosophical' conception of truth instead of the 'Aristotelian conception of truth' because it is mainly among philosophers that the notion of 'truth' is defined entirely in terms of the 'accuracy' or 'correctness' of descriptions. Here, 'truth' and 'falsity' are seen as properties of natural language sentences or of propositions (depending on one's philosophical proclivity): only some or another sentence or proposition can be true or false. Of course, these two meanings are not divorced from each other; very, very often, they go together: someone who speaks false sentences is also considered untrustworthy and his behavior is seen as being deceitful. Consequently, when one speaks of 'falsity' in Law, one intends both sets of meanings.

In contrast to these core meanings of 'falsity' and 'truth', there stand their Indian language-equivalents as they are used in Indian culture. Here, there is a clear and fundamental semantic distinction between 'lies' and 'deception'. These are seen as two different acts, even if, in

some cases, they include both. That is, one could lie without involving deception and truth does not dovetail with trustworthiness. Consequently, when Indians use English, they use it in the 'Indian' sense, where a fundamental semantic distinction is made between a lie and a deception.

Some further clarifications are needed in order to avoid misunderstandings. Indian language-use tracks the empirical psychology of people closely. One could lie for different reasons: for pleasure, for pulling someone's leg, to embroider a story, as a joke, to stave off anger, to prevent a quarrel or fight, and so on. Consequently, an intention to deceive or being 'deceitful' is but one of the reasons for telling a lie. Therefore, while one could lie and deceive, there is no necessary semantic connection between these two meanings. In very simple terms: learning to speak in a language in India is also to learn when to speak the truth, when to lie and to know that morality of such an action is also a matter of the contexts of interaction. Neither lies nor truth carry an ethical weight all the time; there is no unconditional moral obligation imposed on people to tell the truth or refrain from lying.

Before we examine the implications of these semantic differences to the field of Law, let us briefly note their respective origins. In western culture, it is undisputable that these basic meanings of 'truth' and 'falsehood' are, in a very clear sense, 'person-oriented'. That is to say, both 'trustworthiness' and 'deceit' denote qualities of people and 'person-oriented' entities: someone or another is trustworthy or deceitful. They cannot be straightforwardly applied to inanimate things because, in a non-trivial way, they speak about personal qualities and require an entity that is capable of acting intentionally. Given the history of the West, we have two such 'persons': God and the Devil. God is perfectly trustworthy, which is why one believes what He says. God's word can and should be believed because as a perfectly trustworthy being, He does not deceive us. Contrasted to Him, stands the Devil: the lord of Lies and the embodiment of deception. The Devil deceives humankind in all possible ways, including, above all, seducing us to worship him, the false (i.e., deceitful) god as though he is the True (i.e., trustworthy) God. If we believe in the words of the Devil, we are assured of a one-way ticket to Hell, the price for believing in the god of lies. That is also the reason why the Christian creed begins by declaring belief in God, 'I believe in God', but not by declaring belief in the truth of some proposition (or sentence) or another. The history of this Christianity is also the history of the semantic content of the core meanings of the notion of truth and falsity in European languages.

By contrast, Indian culture knows neither this God nor this Devil. It has notions about the properties of the world, which, by nature, is transient and impermanent. Therefore, its questions arise from a different set of concerns: Is there permanence in this transient universe? Only that which subsists through time without being subject to the 'deformation' of change (whether that change is growth or decay) is the 'real' or the 'truth'. That which passes away is not the 'false', however: it merely has existence without being 'false'. It is erroneous to believe that the transient is the permanent; in some senses, this wrong belief is 'false'. To believe in a sentence that is erroneous is to have false beliefs. Falsity, in its core meaning, is to be in error. In this sense, the fundamental meaning of 'truth' refers to 'the real' or the 'permanent', whereas the word 'false' connotes 'existence' or even 'transience'. The major differences between traditions like 'Buddhism' and 'Hinduism' revolve around this issue: is there permanence in this transient universe?

Consequently, there are many practices in India, which include the process of child-rearing, that involve learning and being taught to lie or tell falsehoods. (Understood here as not saying 'what is the case'.) One's mother or siblings or grandparents teach the child to lie so that it may not provoke the anger of the father; friends lie to each other as a matter of course and marrying one's child off by telling a 'thousand lies' is considered a morally good thing. That is, one's process of socialization also involves learning to tell lies. Deception is an act of a different kind; it is even conceivable that one can deceive another by telling the truth. Falsity and deception are separated from each other as truth is distinct from trustworthiness. Lying is not an immoral act by nature; in fact, one can be morally praiseworthy precisely because one tells a lie. By the same token, truth-telling is not, in and of itself, a moral act; one could become profoundly immoral because one tells the truth. This internal disjunction between lie and deceit on the one hand and truth and trustworthiness on the other divorces truth-telling and lying from immediate moral judgments – the opposite of what the western culture thinks. There, lying is a vice and truth-telling is a virtue, in the moral sense.

Again, it is important to note that neither the semantic distinction nor the socialization

process puts a premium on lying. There are any number of percepts that recommend truth-telling and discourage the telling of lies. However, as percepts they are not unconditionally binding on any individual. Nor would be true to say that lies and truth are moral predicates all the time.

The western legal arrangements (including their statutes and laws) presuppose the specifically religious conceptions of 'truth' and 'falsity'. The ratio legis of parts of criminal law (for example, those that speak about fraud, false documents, perjury, etc.) explicitly appeal to 'trustworthiness' and 'deceit'. When the British introduced these legal institutions and their attendant laws, they were operating within the ambit of a secularized Christianity, i.e. they were functioning within the framework of a Christianity that had gone secular. Christian theological ideas were provided with a secular garb and what made this intelligible to people in the West was the presence of the Christian original in its culture.

Yet, say, the Indian Penal Code (IPC) is built upon foundations that not only deny the Indian semantic sense but also postulate its opposite as both morally superior and legally defensible. It presupposes 'falsum' as Latin Christianity conceived it and this is supposed to be better because…well, because Christianity and its child (western culture) know of no other connotations. In such a case, quite independent of normative questions, an entirely unsuspected set of questions comes to the fore: how has the Indian judiciary (and Indian jurisprudence) interpreted this distinction between 'truth' and 'falsity'? Have they followed the Semitic religious distinction or have its judgments reflected the Indian intuitions and ideas on the matter? If the judiciary has followed the British interpretation, it has remained faithful to a religious distinction made by Christianity; in the other case, it must have distorted laws while interpreting them.

Quite apart from these questions, another set of profound issues arises as well: how and in what sense does one 'acquire' these non-Indian notions, when the native Indian languages postulate totally different semantic connections between these words? Even if we suppose that the 'learned' members of the bench in a court of law have some privileged access to the Christian meaning of these words, what about the lawyers and witnesses who do not have such a miraculous access? What about access of the legislative branch of the state to such notions? What is the nature of laws enacted by such an authority? Should we interpret these laws using Indian notions or should we ascribe to the law-giver some mysterious access to the Christian conceptions as well?

These are but a few of the questions, when we begin the process of doing comparative law as students of culture conceive it. As I said in the beginning, I have yet to come across texts that take these matters seriously, even where they do go to the root of the problem of making western legal institution intelligible in the context of Indian culture. I hope the ensuing debate either shows why my questions are nonsensical or, if they are sensible, how we can begin taking steps to study these sets of problems.

Theme 2: Dramatis Personae: the Witness and the Judge

The first theme has introduced us to the problem surrounding truth and falsity. Let us begin the second day by looking at one of the consequences of this difference to the function of two crucial figures in the court of law, namely, the witness and the judge. To appreciate the implications, however, we need a very broad (even if very crude) outline of the history, as it is relevant to our theme.

Between 1050 and 1250, a two hundred year stretch in the Common Era, the European legal system underwent a remarkable transformation. In continental Europe, trial by Ordeal was replaced by confession under inquisition; in England, it was the beginning of the Jury trial. In the first case, the Judge could appeal to the precise and procedural nature of the law which 'dictated' judgment; in the second case, the judge could refer to peer-judgment to defend his decision. In both cases, the reason for transformation was the same: the reluctant witness, who refused to come forth and testify against a person or persons suspected of committing a crime.

Let us get some grips on this issue. One needed witnesses to accuse a person of some crime or another and the judge (whether a civil magistrate or an ecclesiastical authority) could then appeal to the legal provisions to pronounce a sentence. But the problem was the reluc-

tance of the witness to come forth and do what was required. There were, to be sure, many reasons for this state of affairs: one chief reason was the scriptural injunction. Being a witness, one risked either lying ('perjury'), an act forbidden by the scripture ('thou shalt not bear false witness') violating which would send the believer on his way to Hell, or risking blood debt, i.e., carrying blood of another human being on one's hand. Despite many subtle attempts by theologians to solve this dilemma, it remained a huge concern; continental Europe and England took to different routes to solve this problem.

When the British introduced western legal institutions in India, one of the first things they confronted was about the performance of witnesses in court. Century after century, the lamentation remained the same: Indians had absolutely no problems in committing perjury in the court. Indians faced no problems in swearing on the Gita, or on the 'holy' waters of the Ganges, or anything else one cared to introduce to swear upon and yet commit perjury. The British found that it was more realistic and prudent to assume that such 'sworn testimonies' were anything but the truth. In fact, this was one of the primary reasons for introducing English education in India. The British hoped that such an education would help teach the Indians the virtue of not committing perjury in the courts and cure them of their 'repulsive' habit of lying under oath.

In fact, this state of affairs has not disappeared even though the British have disappeared as colonial masters. As every lawyer and judge knows, such witnesses are dime a dozen: it is the most common picture around the court buildings in India where people congregate looking for a job: any lawyer can hire a number of 'eye witnesses' from among them for specified sums of money. If anything at all is certain in the Indian courts, it is this: 'eye witnesses' lie under oath and commit perjury.

In fact, as a matter of procedure, the police presuppose this social fact and make use of it in their working: they simply hire 'eye witnesses' as and when needed. Let me give an example that is as widespread as it is normal in India. Let us imagine a case where a thief steals a golden necklace from a house, pawns it in some shop or another in exchange for money. The Pawn-broker immediately melts the necklace to recover the gold in it. When apprehended by the police, the latter surrenders the gold to the police, who, in turn, pass it on to a gold smith. He is now entrusted to transform the recovered gold into a necklace. The police produce the 'new' necklace as the necklace that the thief allegedly stole. In no court of law, including the Indian courts, can that necklace function as evidence: the thief did not steal that specific necklace which the police introduce in the court. The lawyers suspect and the judge 'knows' this for a fact but the necklace is accepted as evidence. The police know too that what they do might not be 'proper' but, as many police officers in different parts of India have told me, it is countenanced because they do this to 'protect the society from criminals'.

This situation stands to reason: lying is neither immoral nor reprehensible in Indian culture. This does not mean that Indians do not value trustworthiness or put a premium on deceit. This is how the West is forced to look at the issue, inspired completely by Christian conception of truth and falsity. Unless one assumes that Christianity is the most superior religion and that its injunctions and values are inherently superior to anything else that exists in the world, lying need not be a moral issue. If lying is not a moral issue, lying under oath ceases to be a legal issue. However, perjury is. The question then is: what is the 'value' of a legal institution that depends so much on a specific religion that, in its absence, its fundamental tenet fails to make sense or become intelligible?

Of course, one can and does come up with 'secular' jurisprudential reasons in support of what is a religious injunction. That does not make it any more acceptable: it is and remains a religious conception, even if it is now dressed up as a secular truth. The point to note, though, is this: this kind of lying does not create either a pragmatic or a moral problem in India. We can get along perfectly well with each other, even by emphasizing the importance of truth and truth-telling, despite having knowledge of the fact that most of us lie in many circumstances. And that it is also morally meritorious to lie in many circumstances.

Because there is a serious possibility of misunderstanding of what I am saying, a few more words are necessary. I am not claiming that all Indians are liars and cheats or even that centuries of European descriptions are true. To make this point sharper, consider two societies: one where people tell only the truth (understood in the philosophical sense as saying 'what the case is') and another where people only lie (again as saying only things that are untrue).

Logically speaking, there is no problem of communication nor is there any possibility of misunderstanding in either of these two societies: it is merely an issue of knowing how to frame questions in these societies and how to interpret their answers. In a society comprised entirely of truth-tellers, one can predict their behavior and seek communication with them on the assumption that one's question elicits truthful answers. In the other society, where everyone lies all the time and never tells the truth, the situation is equally predictable: one can communicate perfectly well with them too, by assuming that all their answers are lies and by framing questions in such a way that negations of these lies provide us with the truth. The British did not confront a society where everyone lied habitually or even one where the majority did so. Such a situation would not have created any problem for the rulers. The problem arises because India, like any other society and culture, is mixed in nature: there are people who lie and the same people also tell the truth.

The religious conception of truth and falsity has seeped very deep into the consciousness and language-use of western culture. So deep is its penetration that these predicates are metaphorically extended to things and thoughts as well: science becomes 'trustworthy' knowledge; our senses are either 'trustworthy' or they 'deceive' us in gaining knowledge about the world; Descartes begins his meditation with the possibility that an evil genius deceives us about the nature and existence of the external world and so on. The suspicion that others are out to deceive us goes so deep in this culture that every passenger in the airports of the US and the UK is treated as a 'suspect' and a 'potential terrorist', a situation that their so-called 'security measures' testify to. This deep suspicion about the world is rooted in the idea that has lived on for more than 1800 years in Europe: the earth is the 'kingdom' of the father of lies and deceit. The contrast with the Indian culture in this regard cannot be sharper.

Having considered the witness, let us move on to look at the figure of the judge. Again, relying upon the crude paragraph sketch of the history I provided, one of the basic concerns of law has been to protect the judge. Even though he pronounces judgments, he can either fall back on the verdict of the jury or on the detailed procedural aspects of the law: it is the law that judges and not the person of the judge. Allowing this escape route enables one to free the judge from concerns about incurring blood debt or have the blood of individuals on his hand in specific kinds of trial. In general, it makes room for his fairness and impartiality. In fact, this consideration dictates the role of the judge: he is supposed to be objective, impartial and impersonal. In a very strict sense, he is to obey the law and see to its enforcement. He brings, to put it in its ideal form, very little of his personal conceptions of morality and justice into the picture. Even where his ideas are different from the letter and the spirit of the law, it is his duty to follow the law and confine himself to doing this. He 'represents' justice only and strictly to the extent law allows him to be 'just'. No more, no less. It is the law which can be just or unjust but never the judge as a figure.

In contrast to this stands the Indian judiciary that sees itself as the 'embodiment' of justice. Very regularly, especially in the lower courts, the judge sees himself as someone who dispenses 'justice', often completely independent of or even oblivious to legal provisions and statutes. It is not merely a question of self-representation of the judge but also how he is perceived by the people who go to the court. They go there seeking justice in the literal sense of the term and, in the figure of the judge, they find such a person. In fact, a 'good judge' is someone who metes out justice and punishes injustice. In many senses, he represents what the king was alleged to be in pre-modern India: justice embodied and personified. It is this attitude of both the public and the judiciary that helps us understand the phenomenon of massive corruption of the judiciary in India: the law is what the judge says and what he says depends on his personal beliefs. In short, it is neither surprising nor abnormal to see a judge acting arbitrarily and capriciously: that is what a judge is.

If we bring these two figures of the judge and the witness together, it is obvious how the western legal institution is different in India from what it is supposed to be. Its difference does not lie in the lack of education of the judiciary or in the illiteracy of the public: it lies in the very nature of this culture, which is alien to the one that introduced western institutions of law. As must be obvious from the foregoing, the problem is not merely one of 'alienness'. It has also to do with the fact that Indian culture is a developed culture that too has its own notions of justice, truth and so on. When an alien institution is superimposed on an evolved indigenous structure without any awareness of the nature and existence of the latter, distortions and deformations are inevitable. Precisely that has happened in India due to colonial imposition.

Consequently, the presence of western legal institutions in India confronts two different sets of problems. On the one hand, it is neither possible nor is it desirable to abolish these western institutions of law in India. On the other hand, some of the key concepts and institutional roles that India has indigenously developed are at the opposite end of the spectrum than those required by the western judicial institutions. Before we can find some kind of a balance between these two, we need to understand that problems exist which are hardly mentioned in the literature. It is as though one is denying the experience of daily life to embrace an alien experience which can never be one's own. A comparative study of law needs to address itself to these issues with some sense of urgency.

Theme 3: On the Nature of Juridical fact

I have had occasions to speak about 'distortions' and 'deformations' in the western legal institution because the alien has been forcibly transplanted on an indigenous organism. It is time to become a bit clearer about what such distortions consist of.

What is a scientific fact? In very simple terms, we can formulate the current consensus in philosophy of science in the following way: when some sentence, which, in a particular context, is taken as an observational statement, then we have a scientific fact. However, we need to know that such 'facts' are not theory-neutral. On the contrary. These 'facts' are themselves 'theoretical statements', which, however, are considered as facts in a given context. When we conduct experiments using, say, Wilson's cloud chamber, we assume that statements about the voltage of the current, instrumental observations of molecular movements, the recording of light rays on photographic plates, etc. as 'facts' in the experiment. However, each of these 'facts' are conclusions from other hypotheses: about electricity, about molecular movement, about photography and so on. These hypotheses are considered 'low-grade' theories relative to the hypotheses under test and we call such statements as 'scientific facts'. In this sense, the notion of a scientific fact refers to the relative status of some hypotheses in any given context.

I suggest that we look at juridical facts in an analogous fashion. Under this proposal, a juridical fact is a description of some event, circumstance or act by using some or another legal statute or provision relevant to the event in question. The only duty of the judge is to determine what constitute the legal facts of the case while the lawyers attempt to transform some or another description (of an event, a circumstance, or an action) into a juridical fact. That is to say, laws and jurisprudence play the role that scientific theories play in the natural sciences. However, the crucial difference lies here: in a scientific theory, a fact should be deducible (logically or mathematically derivable) from the hypotheses. In the case of law, this relationship is not deductive but transformational in nature. Even though 'logic' and 'reasonableness' are involved in the transformational process, the lawyer does not deduce juridical facts from the statutes but changes one kind of description, say death, into another, say manslaughter or murder. (That is why one needs skill here, which requires practicing law.) The judge (or the jury) determines the success of this transformation. If one looks at juridical facts in this light, one also sees that 'rhetoric' in Law does not deal so much with 'persuasion' as it does with 'thinking'. 'Rhetoric' refers to the thinking activity (which is actually a problem solving activity) required to transform a sentence from natural language into a juridical fact. The only goal and duty of the judge or the jury is to determine whether or not such a transformation has been successful and whether a juridical fact has come into existence or not. Outside of this, the Judge has no other extra-juridical goal, nor can he have any.

Consider now the situation in India by focusing on indigenous institutions and how they work. Here, I summarize the results of fieldwork undertaken by my collaborators which they will present in one of the parallel paper sessions. (The claim is not that this situation is unique to Indian culture but that such methods of solving disputes exist in India.) Confronted by some dispute or another, some or another local authority (considered legitimate by the disputants) tries to resolve it. The basic goal of this authority (whether an individual or a group of people constituted by the tradition in an area) is not just to solve the dispute. Its goal is to reach a settlement in such a way that both the disputants and the community of which they are a part can continue to live peacefully thereafter. Such an authority is the 'judge' in the indigenous tradition. This judge, then, has a goal that goes beyond the mere settling of disputes: he has to judge in a way that satisfies not only the disputants but also

the community. It is his goal to restore peace, where it has been disturbed by the dispute and the quarrel.

Where such notions of a judge and settling disputes enjoy currency and have seeped into the popular consciousness, there, when disputes enter the courts (the western legal institution) the expectations do not change. Nor does the idea about the role and nature of the judge. I submit that this has happened in India: the judges who sit on the benches have some such intuition regarding what a judge is. Therefore, their goal in these courts of law is multi-determined: apart from judging what the juridical facts are (this becomes the secondary or even the tertiary goal, to the extent it remains a goal at all), the judge has other, extra-legal goals. They consist of finding 'just' solutions, restore imbalance and redress the wrongs. They also include, to the extent possible, the goal of ensuring a peaceful community. It is in this sense that a distortion occurs in Indian Law because of the superimposition of the Western legal institutions.

Of course, this situation leads to another kind of distortion. One of the basic functions of law in western culture is to reduce arbitrariness and capriciousness in settling disputes. Both the formulation and the enforcement of law is standardized and made uniform to prevent excesses and ensure fairness. However, the imposition of the western institutions actually encourages precisely that arbitrariness which law is supposed to prevent. Now, the figure of the judge can also use the legal institution, which gives him the power to do what he does, to make arbitrary pronouncements because of the culturally specific notion of the judge. Such arbitrariness does not occur in the context of the indigenous cultural institution: there reasonableness prevails because the judge faces the community directly and, in some sense, owes explanations to such a community. In the context of modern courts, however, these constraints which necessitate reasonableness are not present leaving only the individual facing the legal power of the judge-as-an-individual.

This is not all. The extra-legal goals that the judge believes he has are completely determined by his personal preferences. They depend non-trivially upon his notions of 'wrong' and 'right', 'just' and 'unjust' and what he thinks redressing a wrong involves. The law helps him as a guiding principle, as some sort of a heuristic at best, using which he devises his own solutions. The Indian judge uses the western institution to suit his own taste. If this pole constitutes one end of the spectrum, at the other end, there is the tendency of 'following the rules' blindly. Here, there is no possibility for any juridical discussions or for a reflection about the inevitable interpretations of law. The judge 'applies' the rule blindly and without even an awareness of the fact that he is interpreting the law: 'those are the rules'.

In neither of these cases, is it possible to speak of any serious jurisprudential reasoning; no possibility of reflecting about the shortcomings of law because of which better laws could come into being. Because most litigations in the courts of law occupy these two ends of the spectrum, Indian jurisprudence lacks the quality that their western counterparts have. In simple terms: the modern courts in India encourage arbitrariness precisely because they reduce the same in the western culture.

This is not the only level where distortions occur. They occur at the level of formulation and promulgation of the law itself. To appreciate this distortion, we need to keep in mind that one of the basic ideas in both politics and law (in western culture) is that the laws of a country are formulated to protect and further the general interests of society. To the extent possible, Law tries to reconcile the particular interests of individuals and groups with the general interests of the society. Neither law nor politics is meant to further the particular interests of any single community, group or individual. That is to say, laws are not meant to protect or further corporatist interests. There is always a trade-off in both politics and law between the special or particular interests of specific groups and individuals and the general interests of the society. Such a trade-off, however, must obey one condition: the general interest cannot be sacrificed to promote a particular interest.

Such general interests cannot be constituted by aggregating the particular interests of any given group of individuals, even if and where that group constitutes the majority. When laws partially protect the specific interests of a group or sets of individuals, they are admissible only in so far as such laws either protect or further the general interests of society as a whole. Otherwise, democracy would be completely identical to mob rule or the tyranny of a group (whether it is the majority or the minority) over the rest of society. In such cases, laws become the expression of the interests of some or another group in power or of a group

(or sets of groups) capable of currying favors with the lawmakers.

For such ideas to make sense, we need to have a conception of the notion of 'interests', whether it is an institutional interest or interests that are either particular or general in nature. Western culture has developed this notion primarily because of its religion, namely, Christianity. It speaks in terms of individual interests of the human being (salvation), the institutional interests of the Church (to be the guardian of God's will on earth and to guide its flock) and, by extension, the interests of the State. It also speaks of the general interests of a community of believers, namely, the Christian ecclesia.

In India, the contrast cannot be more striking. The notion of 'interest' makes no sense here given, among other things, the absence of any vernacular equivalent of the word that even remotely comes close to the meaning of the word 'interest'. The absence of the word is striking because Indian culture does not have a vocabulary to make any sense of any kind of discourse on interests – whether institutional, private, public, general or social. If this the case, what is the ratio legis of laws promulgated in India? The answer is predictable: laws are made in order to favor some specific groups, individuals and institutions. Legislations are meant to explicitly favor specific groups (say, the reservation policy that favors only particular groups in society), this or that caste group, widows and orphans, cricket players, and so on. In short, Law favors those able to buy the lawmakers or those groups whose votes the politicians need badly.

Of course, the absence of vocabulary indexes the presence of conceptions of person and society that are different from those espoused by Christianity. Though this is not the place to argue the idea, it needs emphasizing that both philosophical anthropology and psychological science simply endorse ideas formulated originally by Christian theology. It can be shown that political science and law in western culture presuppose the truth of these religious conceptions. It can also be shown, quite independent of whether India has 'native' religions or not, that Indian ideas about personhood are not even remotely similar to those current in the West. The question is this then: what happens when the laws framed within the ambit of religious ideas of the West are forcibly imposed on a culture which thinks completely differently about persons and society?

At the least, the following distortion is also equally inevitable. When the State promulgates laws that only favor and further corporatist interests, citizens of such a polity use such laws mostly retributively. That is, seeking personal vengeance becomes the major if not the sole goal of the citizenry, when they take to the courts. Such is also increasingly the case in India: one goes to the court in order to punish one's real or alleged enemies. The so-called 'atrocity' cases, or cases involving 'dowry' or 'domestic violence' are beginning to become increasingly common and widespread in India not because the law finally allows redressing acts of injustice but because one merely seeks to punish one's enemies or one's husbands. Most such cases are fake but they fulfil the goal of seeking personal vengeance. Or, again, one goes to the courts seeking only personal gains, which the laws encourage. In other words, the institutions of western law in India encourage just the opposite of what such laws are meant to: a vengeful, spiteful and 'selfish' citizenry. Instead of promoting a cohesive society, such laws encourage divisiveness and conflict in society. If this is not a perversion, what else is?

Of course, such laws are enforceable because they are approved by a majority vote in the relevant parliament. The majority is not and cannot be motivated by the general interests of the society as a whole, while approving such laws. Its reasons too are as narrow as the reasoning of an individual who contemplates his own benefit. Consequently, these laws have totally perverse goals, and their effects are also equally perverse. This is as far as one can be from what Law is in western culture.

Conclusion

It has been my intention to generate a discussion by formulating some issues that I find crucial to a study of the relationship between law, culture and religion. As I said at the beginning, I am a layman in these matters but I am convinced that the issues I have hinted at are crucial for a better understanding of Law itself. We can move forward only if we begin to look at the problems in a different light. I do not claim that I have provided such a different light but I do claim that we need to add new and further dimensions to what 'comparative law' is today, if we have to begin a serious study in that domain. It is my hope that we can discuss these issues in ways that do justice to their seriousness.

Chair # Marianne Keppens
Room # Auditorium

Each of the three conference days will start with a plenary Roundtable session. Each roundtable session will be initiated by one paper presentation, which will circumscribe the questions for the debate. This will be followed by a round table discussion among the invited permanent respondents.

Theme

In contemporary India, communal conflict remains a major threat to social peace. From Partition onwards, violent clashes between Hindus and Muslims have disrupted different parts of the country, with the Gujarat riots as a recent sad climax. While much research has gone into finding out the empirical details of these conflicts and the ways they are organized, we still lack understanding of the general structure of 'religious' or 'communal' violence in India.

A first difficulty is that we do not know how religious violence is different from ethnic, socio-economic or political violence. Many commentators have suggested that the Hindu-Muslim violence has little to do with religion, but that religion is used to conceal the real reasons behind the conflicts – namely, the self-interest of group leaders or the pursuit of political and socio-economic interests. The ease with which such statements are made is proportional to the absence of clarity as to when a conflict is religious. It is not as though these commentators possess criteria to distinguish religious conflict from that which is not.

Conflicts between Protestants and Catholics in Europe, Muslims and Christians in Nigeria, Hindus and Muslims in India, and Tamils and Sinhalas in Sri Lanka are all supposed to be instances of religious violence. Yet the only justification for this classification is the belief that different religious communities are involved. Even if we accept this belief, this is inadequate: when two groups clash violently, the fact that these groups happen to belong to different 'religions' does not suffice to show that this is a case of religious violence. So which are the properties that transform an act of violence into religious violence?

It is often suggested that the perpetrators' motives are essential to finding out whether some act of violence amounts to religious violence. Religious motives then make for religious violence. This conceals several difficulties. First, the problem merely shifts to finding out what makes a motive religious. Second, as onlookers or commentators, we rely on statements made by the perpetrators to reveal their motives. But can violent acts become religious violence simply because of such statements? If someone shoots and bombs people while shouting 'Allahu Akbar' or 'Jai Sri Ram' instead of 'Inquilab Zindabad' or 'your money or your life', do these slogans transform the nature of the act? Third, how do we know that these slogans reveal the real motives behind violent acts? More often than not, we see that people conceal or lie about their real motives. In this case, we assume that the statements made by the perpetrators somehow reveal their true motives.

Another property attributed to religious violence is its relation to religious truth claims. The wars of religion that raged across early modern Europe are prototypical examples of what we would call 'religious conflicts'. Characteristic of these was the fact that they concerned truth claims made for conflicting religious doctrines: Protestants and Catholics both believed only they represented the one true religion and that therefore the others had to be eradicated. However, the Hindu-Muslim conflicts in India do not share this characteristic. Hindus do not attack Muslims because they think the latter are followers of false or heretical religion and should now accept some set of doctrines as true religion or some Hindu deity as the true God. Instead, there appears to be a different problem: Hindus have great difficulty in accommodating the kind of truth claims made by Islam and Christianity. There is a sense that these truth claims make Islam and Christianity alien to Indian culture. This is similar to the reaction of the ancient Roman pagans to early Christianity. Thus, rather than assuming that all these conflicts are instances of religious violence, it is more interesting to raise the following question: how are conflicts between Hindus and Muslims (and others) in India

structurally different from the religious conflicts between Christian confessions in Europe or between Christians and Muslims elsewhere?

Apart from 'religious violence', the notion of 'communalism' is also used to make sense of the Hindu-Muslim riots. According to this notion, the main cause behind communal conflicts in India is the use of religion for secular political ends. It is said that group leaders link the religious identity of a group to a set of secular interests that should be protected and pursued by this group. Since these secular interests stand in conflict with those of other communities, the consequence is communal conflict. Often it is added that religion itself is not responsible for this violence, but rather its misuse by power-hungry leaders. The harm of communalism lies in the mixing of politics and religion, which causes conflict.

Again, there are several problems here. The religious-secular distinction upon which this explanation draws is flawed. We do not know how to distinguish between religious interests and goals, on one hand, and secular political interests and goals, on the other hand. Perhaps we could give examples like 'salvation' as a religious interest (or goal) and 'material welfare' as a secular political one, but then we can also argue that some religions take the material flourishing of their followers as their interest and goal. In the absence of general criteria, the disapproval of communalism as 'religious politics' has no theoretical grounds. Second, the supposed causal link between the use of religion for secular political goals and the occurrence of inter-community violence is equally unclear. When Gandhi called on ahimsa to organize non-violent struggle against the British colonial powers, this could well be described as the use of religion for political ends. There are other similar examples. Yet one can only wonder as to why these should cause inter-community violence.

What then is the rationale behind this explanation of 'communal violence'? The claim that religion does not cause violence, but that the true cause is the human abuse of religion for worldly or secular ends is an old Christian commonplace, which became popular in post-Reformation Europe to make sense of the wars of religion. The belief was that true religion is the revelation of the biblical God and reflects His will for humanity. Therefore, it can only bring about harmony and order. However, human beings – sinful as they are and misguided by the devil – corrupt this pure religion by adding their own fabrications and trying to use religion for their own worldly ends. This human corruption of religion (for which clerics and politicians were generally held responsible) then causes violence and conflict. Does the 'communalism' account merely reproduce this theological commonplace as an explanation for 'religious violence' in India? Or does it do something more?

Describing the conflicts in India as religious or communal violence does not help us to understand their nature. In fact, it has us miss some of their most striking properties. One of these is the role of the secular nation-state in creating and enhancing communal conflict in India. Naturally, conflicts between different groups and traditions have always existed, but it appears they began to take the systematic form they have today once the state approached different groups as religious groups. That is, the conceptual apparatus of the secular nation-state conceives of different groups in Indian society as distinct religious communities standing in a relation of antagonism. How does the secular nation-state contribute to shaping 'religious' conflict in India? Another aspect is the peculiar role played by the past in Hindu-Muslim conflict. Today's Muslims are blamed by Hindus for the destruction of temples and forceful conversions that happened more than five centuries ago. At the same time, it is as though the deep impact of Mughal rule on Indian culture can be undone by destroying mosques, rebuilding temples, and 'reconverting' people. This is to make the past part of the present in order to deny one's past. How should we account for this peculiar attitude towards the past and its role in the conflicts in contemporary India?

The three roundtable sessions will address problems concerning religious and communal violence in India. Three speakers will be invited to present a paper that examines some of these problems.

Roundtable Session 1
Communal Violence and Colonial Consciousness

Sunday 25 November, 11.15-13.15
Speaker # Sarah Claerhout, Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium

The notions of 'communalism' and 'communal violence' play a peculiar role in debates about inter-community conflict in India. They claim to explain the conflicts: these are supposed to be caused by mixing religion and politics. But such explanations are obscure because it is unclear what it means to mix politics with religion. My presentation will suggest that the communalism discourse occludes the experience of inter-community conflict in India rather than reflecting upon it. The notion of 'communalism' is embedded in the colonial consciousness that shapes the minds of modern India.
The presentation will analyze two cases:

(1) It will look at the way in which Nehru systematically failed to understand Gandhi's politics. Nehru could not make sense of the impact Gandhi had on the Indian people (including Nehru himself). At times he experienced moments of profound alienation: he realized that he was cut off from Indian culture and lived in a different world than Gandhi, whose reasoning and mode of being he could not access. But colonial consciousness and the conceptual language of 'communalism' prevented him from reflecting on this alienating experience. Instead Nehru descriptively transformed Gandhi and his remarkable impact on the Indian people into an instance of 'abusing religion for political ends'.
(2) The presentation will then examine the 2011 Someshekara Report on violence between Hindus and Christians in Karnataka. As an instance of the communalism discourse, this report is interesting for several reasons: first, as an incoherent text, it reveals how some of the terms in this discourse such as 'religion', 'religious violence', 'Christianity' are understood in a way completely different from the content usually attributed to these terms. This distortion points to a different cultural experience that has given shape to the use of such terms in India. Second, as an official report by a prominent judge, the Someshekara Report also reveals the distortive effect that colonial consciousness continues to have on Indian society and its legal system.

The challenge posed by 'communalism', then, is not that of purifying Indian politics from religious influences. Rather it is a challenge of accessing the Indian experience of inter-community conflict by moving beyond the experience-occluding effects of colonial consciousness.

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Roundtable Session 2
Gandhi's Secularism: Religion in "Public" and in "Private"

Monday 26 November, 11.15-13.15
Speaker # Farah Godrej, Department of Political Science, University of California, USA

I will examine what precisely Gandhi means by the terms "secular" and "secularism." Gandhi uses these terms in a variety of ways in his thought, and on the face of it, there appears to be something of a contradiction in how he uses them. At times, he insists that politics must be infused with religion or spirituality, while at other times, he expresses a strong sentiment that religion and the state should remain separate, and that the state should never interfere with matters of religion. In exploring this apparent contradiction, we will see a focus in his thought on the concept of religion understood as action, activity and practice over theory, principle and moral abstraction. Moreover, we will also see that his emphasis on the activity rather than knowledge of faith challenges the conceptual distinction between public and private as it is traditionally understood within theories of secularism, causing us to rethink what practices and ways of living should be relegated to the realm of the "private" and not politicized, and to re-envision what properly belongs in the realm of the so-called "private."

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Roundtable Session 3
What is Comparative Law?

Tuesday 27 November, 14.30-16.30
Speaker # Jakob De Roover, Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium. He will be making his presentation on the basis of a paper written by Jany János, Department of International Studies, Pázmány Péter Catholic University.

Comparative law is relatively young in the field of legal science, looking back to a history of approximately hundred years. It never belonged to the main issues of legal research, that was dominated by legal history, and legal philosophy on the one hand, and various areas such as private law, criminal law or law of procedure on the other. In contrast to other areas of legal research where the basic assumptions, the subject of study and the methods applied are defined more or less clearly, comparative law lacks such uniformity both in its underlying principles and in its methods. As a result we can witness a variety of approaches concerning the very essence of a particular discipline, that is: what to study and how to study it. These differences in methods and principles often resulted in fierce debates among comparativists which had the double effect of both enriching the field of comparative law and at the same time hindering it to produce fully recognised results. Recently many methodological approaches and subject areas have been linked to comparative law together with a variety of expectations.

In the third Roundtable session we will discuss the past and future of comparative law. The problems and limitations of the existing approaches of comparative law will be analysed and new proposals will be made for a new direction for this field of study.

Permanent respondents:

Jakob De Roover
Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium

J.S. Sadananda
Centre for the Study of Local Cultures, Kuvempu University, Shimoga, India

P. Ishwara Bhat
Vice Chancellor of the West Bengal National University of Juridical Sciences, Kolkata, India

Rajaram Hegde
Centre for the Study of Local Cultures, Kuvempu University, Shimoga, India

Sarah Claerhout
Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium

T. R. Subramanya
Chairperson & Dean, Faculty of Law, Bangalore University, Bangalore, India

Venkat D. Rao
School of English Literary Studies, The English and Foreign Languages University, Hyderabad, India

Vivek Dhareshwar
Srishti School of Art, Design and Technology, India

PARALLEL SESSIONS 1
DETAILED SCHEDULE

Sunday 25 November, 9.00 - 11.00

The Colonial Construction of Hinduism 1

RASHEDA PARVEEN
Kali Worship in British India: Debates and Surveillance

ARCHNA SAHWNEY
Taking a Closer Look at Representations of Goddess Kali

MARTIN FÁREK
Has the Construction of Hinduism been Colonial? Evidence from the Development of the Czech Indology

DAVID BRADNA

Conceptualization of Asian Religious Traditions: India and Japan in the Western Discourse

Chair: Dunkin Jalki
Room: Seminar Room 1

Religion and Law 1

FERNANDO SIMÕES
Are Good Samaritans Reasonable Persons?

SIEGFRIED VAN DUFFEL
Religion and Human Rights

MALCOLM VOYCE
A Reconsideration of the Approach of 'Buddhist Vinaya as Law' and as a Normative Form of Ethics

SANTHOSH KUMAR P.K.
Dilemma of Liberal Democracy and Prohibition Law

Chair: Alexander Naessens
Room: Seminar Room 2

Religious and Communal Violence 1

DUŠAN DÉAK
Violent Mlechha or Loving Bhakta? Changing Representations of Islamicate polities in the Marathi hagiography

ANIRUDH GARGA
Religious Conversions and Law in India

JHUMA SEN
Secularism, Hindutva and Democracy: Notes on Multiculturalism from India

SARBESWAR SAHOO
Competing Projects of Conversion and Religious Violence in India

Chair: Sarah Claerhout
Room: Seminar Room 3

Secularism in Europe and India 1

DEVAIAH N.G. & SHESHADRI G.B.
Different Facets of Secularism

SUBRAT RATH
Religious Entrenchment of Secularism in India: Studies in Sociology of Religion

DEVESH SAXENA & SHRESHTA BANARJEE
Law & the Myth on the Concept of Secularism

Chair: Farah Godrej
Room: Seminar Room 4

PARALLEL SESSIONS 2
DETAILED SCHEDULE

Monday 26 November, 9.00 - 11.00

Gender and Law

NAMRATA GANNERI
New Media and the Icons of the Hindu Right: An Analysis of the Telefilm 'Tejtapaswini'

AHMED SOHAIB
Vilifying Female, Edifying Men: Physio-Moral Discourse on Body in Early Buddhist Texts

NAOMI GOLDENBERG
A Theory of 'Religions' as Vestigial States and its Implications for Laws about Gender and Religion

KATHLEEN MCPHILLIPS
Women, Religion and the State in Post-secular Australia

MANISHA SETHY
Jain Widows and Legal Texts in Colonial Courts

Chair: Naomi Goldenberg
Room: Seminar Room 5

Special S.D.M. panel: Caste System and Indian Religion

K.R. AITHAL
Religion as a Basis of Caste System in India

G.N. BHAT
Religion vis-à-vis Caste System in India

AMAR KUMAR PANDEY
Thoughts on India Studies

Chair: G.R. Jagadish
Room: Seminar Room 6

Religion and Tradition

NORA MELNIKOVÁ
The Modern School of Vipassana - Buddhist or Secular?

SHANKARAPPA N.S. &
SHANMUKHA A.
Problems of 'Christian Dalits' in Karnataka

TOMÁŠ AVRAMOV
Contemporary and Recent Indian Masters, Gurus and Sages and the Theme of Religious Conversion

Chair: Venkat D. Rao
Room: Seminar Room 1

Religion and Law 2

WAHEEDA AMIEN
The Incorporation of Muslim Personal Law into the Indian Secular Legal System: Lessons for South Africa

KALINDI KOKAL
Not so Plural: Muslim Law in Taluka Courts

RAJASHREE PATIL
Religion and Law in India

Chair: Prakash Shah
Room: Seminar Room 2

The Colonial Construction of Hinduism 2

SAI BHATAWADEKAR
Advaita Makes the Most Sense: 19th Century German Streamlining of Hinduism

IPSHITA NATH &
ANUBHAV PRADHAN
Being Hindu - Being Us, Post-Colonial Perspectives on Hinduism(s) in the Twenty-first Century

CEZARY GALEWICZ
Ghost Books and Twisted Identities of Textual Communities: Toward an Ecology of Cast and Religion

Chair: Sandeep Kumar Shetty
Room: Seminar Room 3

How to teach about the Indian traditions?

Conducted by:

PRANUSHA KULKARNI
How to Educate Indian school Students about the Effects of Colonization on what they are Currently Studying?

MALCOLM VOYCE
The Teaching of Buddhism and Law

Room: Seminar Room 4

Special S.D.M. panel: Secularism and Law

GIRISH K.C.
Secularism vis-à-vis Religious Values in Educational Institutions

B.S. REDDY
Equality of Religions – A Comparative Legal Approach

NANCY CHANDRAKUMAR
Religion, State and Law in India

MALVIKA D.
Indian Religion and Law

Chair: Shankar Bhat
Room: Seminar Room 5

Special S.D.M. panel: Religious and Communal Violence

PRABHAKAR JOSHI
Justice Dispensation System in Dharmasthala

ANANTHAKRISHNA BHAT
Communal Violence, Sociological Issues

RAHAMATHULLAHA
Religion not a Basis for Communal Violence

Chair: Moodithaya
Room: Seminar Room 6

PARALLEL SESSIONS 3
DETAILED SCHEDULE

Tuesday 27 November, 9.00 - 11.00

Rethinking the Caste System

PRAVEEN T.L.
"Pseudo facts" in Kannada Fictions: the Mechanisms of Colonial Consciousness

PRANUSHA KULKARNI
Sailing a Hired Boat - Why We Won't Make it to the Shores

KAVITHA P.N.
Caste Classification: a Note on the Classification of Lingaayata

SHANMUKHA A.
Dalit Atrocities Cases : Myth and reality

Chair: Jakob De Roover
Room: Seminar Room 1

Religion and Law 3

SIMON CUBELIC
How to Read an Early Colonial dharmaśāstra Text? Reflections on the rnādāna-section of Sarvoru Śarman's Vivādasārārnava

MANOJKUMAR HIREMATH
Symbiosis of Religious Pluralism and Legal Secularism: A Death Knell to Legal Pluralism in India?

OLGA ATOIAN
Hindu Sense of Justice in the Context of Modern Legal Space

SIDDHARTH DUBEY
Indian Civilization: An Overview

Chair: Rajaram Hegde
Room: Seminar Room 2

Religious and Communal Violence 2

ROHIT DUTTA ROY
'Hindu' Writers and the Hindu Identity: A Comparative Analysis of Communalism and Literature during Colonial Rule

SUMBUL FARAH
From Congregation to Crowd, From Procession to Mob

MANAF K.K.
Making 'un-reformed': Gender, Dress and the Memories of Conversion in Charity Images in Vernacular Newspaper in Kerala

Chair: Sufiya Pathan
Room: Seminar Room 3

Secularism in Europe and India 2

DUŠAN LUZNY &
DANIEL TOPINKA
Secularism in the Most Secular and Most Religious Societies: the Case of the Czech Republic and India

DEBIKA SAHA
Revisiting Secularism: A Study

SHARMILA RAO
The Document of Religious Secularism in Indian Theatre

Chair: J.S. Sadananda
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The Approach of Indian Society towards Issues Relating to Conversion

SURENDRA RAO
The Constitutional Aspects relating to the Right of Conversion

P. ISHWARA BHAT
Impact of Colonial Laws on Hinduism

T.R. SUBRAMANYA
Imperial Approach to the Principles of Objectivity in Religious Law Making

Chair: Devaraj
Room: Seminar Room 5

Special S.D.M. panel: Religion and Law

MOHAN RAM
Law and Religious Reforms in India

C.S.PATIL
Religious Based Personal Laws, a Need for Introspection

P.D. SEBASTIAN
Multicularalism and Religious Laws

Chair: Tharanatha Shetty
Room: Seminar Room 6

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JHUMA SEN
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Imperial Approach to the Principles of Objectivity in Religious Law Making
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WAHEEDA AMIEN
The Incorporation of Muslim Personal Law into the Indian Secular Legal System: Lessons for South Africa

Rasheda Parveen
National Institute of Technology (Rourkela, India)

Kali Worship in British India: Debates and Surveillance

The present paper seeks to evaluate the worship of Kali and Bhawani by the Thuggee cult invented by British India. Whether for missionary mileage or for colonial subjugation, the rationale of Kali worship and the associated yet constructed human sacrifice witnessed a prerogative turn by the end of the nineteenth century. The cult associated with it—Thuggee chiefly but its purview included some Muslims and Sikhs as well—has often been highly romanticized and thereby has helped in the mission of Othering Oriental religious practices.

In this paper we evaluate a variety of colonial writing—historical, judicial and fictional—on the Thuggee cult. We map the way the mother-figure was idealized for rationalizing human-sacrifice. We not only argue that the overuse of religious symbols provide a basis for wild romantic imagination of the West, we also suggest that detailing religious elements projects the criticality of Oriental religious practices. Central to the discussion will be the role of the earthly and celestial body—both of the goddess and of imperial soldiers/victims—that codified the practice in its extremity. In short, we argue that though Kali worship has been central in rationalizing Thuggee practices in British India, other missions such as controlling the body and subjugating the Orient, remain central to British invention of the religious cult.

Sunday 25 November, 9.00-11.00, Seminar Room 1
The Colonial Construction of Hinduism 1
Chair: Dunkin Jalki

Archna Sahwney

Taking a Closer Look at Representations of Goddess Kali

My paper attempts to intervene in the ongoing debate regarding the representation of Goddess Kali. I suggest that the ongoing debate over this subject has been constructed through the colonial encounter with its subtle and subterranean ramifications, and that we need to rethink the parameters of the debate. Goddess Kali is often represented as bloodthirsty and violent in both Western academic and popular cultural contexts. For instance, according to Carol Christ, "... Kali holds a sword, wears a necklace of severed human heads and a skirt of severed human arms...The bloodthirsty warrior Goddesses legitimate warfare and violence, large-scale blood sacrifice, and a dualistic understanding of good and evil." Is such a representation of Goddess Kali a 'colonial construct', or is there something intrinsically 'violent' about this Goddess? What do we mean by 'colonial construct', and how do we define violence? Why do Western media as well as academic interpretations of Goddess Kali continue to promote the image of the Goddess as violent? My paper attempts to examine the complex symbolism at play in the iconography of the Goddess as a way of engaging with these questions. It informs its discussion by using scriptural texts such as the Devi Mahatmya, sacred stories related to the Hindu Goddess tradition, and analyses some of the political compulsions behind the appropriations of Goddess Kali by Western feminists.

Martin Fárek
Department for the Study of Religions, University of Pardubice
(Pardubice, Czech Republic)

Has the Construction of Hinduism been Colonial?
Evidence from the Development of the Czech Indology

Claims about the colonial nature of the construction of Hinduism have been influential over the last two decades. But so far it is not clear what is specifically colonial about the definitions that have been given of Hinduism. S.N. Balagangadhara and Gelders made a strong point by showing rich evidence for the existence of the core definiens of Hinduism, in their particular structure, long before Europeans had established colonial rule in India. Here, I wish to add another argument. What about the Orientalist scholarship in the countries which did not participate in the colonisation of India, or even scholarship that involved the direct critique of the colonial project? If there was anything specifically colonial about the definiens of Hinduism, or the whole structure of definitions, we should expect that the above mentioned scholarship would point to it. Such a scholarship would at least try to analyse the colonial interpretations of Indian traditions, to discern between colonial and non-colonial characteristics of the definiens of Hindusim, etc. Did something like this happen? The Czech (former Czechoslovak) Indology is a good case to investigate for possible evidence of this point. Czech and Slovak people of the nineteenth century were subjected to the rule of the Habsburg empire and thus the intellectuals of the oppressed nations felt sympathies for the subjugated people of India. The tradition of Czech Indology started in these times.

In brief, colonialism of Western European powers has been criticised and analysed from different perspectives in the last hundred fifty years of Czech Orientalism. But I did not find a single instance of a Czech analysis or critique of the colonial characteristics in the discussions about the nature of Hinduism. Rather, the allegedly colonial construction of Hinduism has made perfect sense to the Czech intellectuals, including Indologists. I will argue that this points to the essentially same framework of European interpretations of Indian traditions as religions, the framework that European intellectuals have shared despite their different theories and opinions concerning colonialism.

Sunday 25 November, 9.00-11.00, Seminar Room 1
The Colonial Construction of Hinduism 1
Chair: Dunkin Jalki

David Bradna
Department for the Study of Religions, University of Pardubice
(Pardubice, Czech Republic)

Conceptualization of Asian Religious Traditions: India and Japan in the Western Discourse

Said's hypothesis later developed by Balagangadhara showed that within the Western discourse on India there are starting points and patterns traceable into Christian theology. In this paper I will, by presenting specific examples, attempt to demonstrate that the way Westerners have been structuring the image of India can be found elsewhere in Asia too, and that Orientalism constitutes an urgent problem. The fact that the discourse on India and Japan has shared similarities will help us grasp that instead of enriching our knowledge of India and Japan, the Western interpretative framework based in Christian theology prevents us from understanding the Indians and the Japanese the way they perceive themselves, their culture and the world.

For the purposes of this paper I have chosen Shintō and the way it had been conceptualized by Western missionaries, travelers, merchants, and scholars from 16th century until the beginning of the 20th century. The meaning of Shintō came to be a major theme in the second half of the 20th century. The notion of Shintō as the indigenous religion of Japan that has continued in an unbroken line from prehistoric times to the present had been questioned. Little attention has been, however, given to the development by which that ill grasped notion of Shintō emerged. In this paper I will attempt to show that the concept of Shintō was in fact the doing of the Western discourse and had little in common with the reality of Japan.

Fernando Simões
Faculty of Law, University of Macau (Macau, China)

Are Good Samaritans Reasonable Persons?

Donoghue v Stevenson established the modern principle whereby one person owes another person a duty of care. The eighty-years-old decision was based upon the 'neighbor' principle, derived from the Christian rule of 'loving your neighbor' and the Parable of the Good Samaritan. Sometimes Law treats people in an 'objective' way, namely, when acts are viewed in light of what 'reasonable people' would be expected to do. This criterion is used to assess the acceptability of behavior in many areas of the law including civil liability and Criminal Law.
In China, in 2011, the case of a toddler run over twice and left to die by passers-by has sparked the debate about the legal and ethical shortcomings of China's economic progress. A camera filmed a hit-and-run driver who knocked 2-year-old Wang Yueyue over. During the next minutes, it captured 18 people walking or cycling by without stopping, before a man decided to help her. Some commentators blamed the way Chinese 'Good Samaritans' have sometimes become extortion victims of the people they helped. A new consensus has emerged, that in today's world it is unwise to help a stranger in a public place, as China has no law that protects Good Samaritans from being sued by the people they help.

Is it acceptable, in the present-day, to extract legal principles from religious norms of behavior? Frequently, in a negligence case, a common response of the defendant is that no one else in the field takes these steps. Is it acceptable to argue that no one else in the field would act? What is reasonable depends on a variety of circumstances, namely what others are doing. Do religious beliefs play any role on what is socially considered as reasonable? Is a "reasonable person" a "religious" one?

Sunday 25 November, 9.00-11.00, Seminar Room 2
Religion and Law 1
Chair: Alexander Naessens

Siegfried Van Duffel
School of Humanities and Social Sciences, Nazarbayev University (Astana, Kazakhstan)

Religion and Human Rights

The idea of human rights is non-trivially connected to a culture that is constituted by a religion. Such a culture brings into being a law-conception of ethics and the notion of moral obligation. A necessary component of this ethical outlook is the idea that human beings have a will, and hence that all genuine actions are intentional actions. Religion further spreads the idea that human beings have a role to play in God's plan, and hence that certain sets of actions are morally necessary.

From this ethical outlook and its idea of the requirements of agency emerge two natural rights theories. The first is a theory of 'welfare rights' (in a very broad sense). It starts from the idea that people must be able to make decisions and act upon them. In the religious version, it requires people to maintain the conditions created by God that enable people to act upon His will. The secular version requires us to generate the conditions that allow people to realize their goals. The second is a theory of 'property-rights' (again in a very broad sense). It starts from the idea that our acts of will have normative consequences for others. It secularizes the idea of God's authority over his creation by suggesting that human beings create as well and that they must have a similar authority of their creation.

Together, the demands of these theories are such that no sensible person could possibly take them serious. These requirements – if realized – would turn human beings into so many versions of the God of Judaism, Christianity or Islam. Moreover, the demands are incompatible and each theory is incoherent in its own right. Thus, we every reason to abandon the idea of human rights.

Malcolm Voyce
Department of Law, Macquarie University (Sydney, Australia)

A Reconsideration of the Approach of 'Buddhist Vinaya as Law' and as a Normative Form of Ethics

This paper considers the recent debate over the nature of Buddhist ethics largely conducted by European scholars such as Keown, Goodman and Olson. These scholars have argued in different ways that Buddhist ethics may be assimilated or may correspond with different forms of western ethical theory.

I show this approach to Buddhist ethics and law makes presumptions about the universal nature of rationality that offer a universal criterion of moral judgment. My approach follows Foucault's argument and his notion that there are no generalized standards to regard ethics as a system of transformation in that ethical considerations create a space for the ethical, not in a normative sense but one arising from critical practice.

To expand on this claim I examine offences in the Vinaya as regards sexual activities, theft and rules as regard etiquette and deportment. As regards sexual activities I conclude that the Buddha was not so much contemplating the wrongfulness of the acts themselves but more the state of mind of the perpetuator. Other offences show that the Buddha was concerned with the impact upon Hindu communities as such might occur with a clash over Brahminical values and concerns governing issues of debt, property and inheritance and pollution. At first blush it thus appears that the Buddha offered a form of consequentialist ethics.

However, I conclude that the utilization of different forms of western ethical theory as regards the Vinaya and Buddhist texts in general creates a form of misunderstanding. Buddhist ethics should be seen as empirical as the ultimate point of reference lies in the purity and wholesomeness of each individual action.

Sunday 25 November, 9.00-11.00, Seminar Room 2
Religion and Law 1
Chair: Alexander Naessens

Santhosh Kumar P.K.
Karnataka State Law University (Hubli, India)

Dilemma of Liberal Democracy and Prohibition Law

India adapted liberal democracy after independence, in order to provide individual freedom to its people. Indian elites formed the constitution on the basis of Liberal Democracy, which solely intends to protect various freedoms of Indian citizens. Especially article 25 and 26 of the Indian constitution provides "religious freedom". Nevertheless, the concept of religious freedom is generating irresolvable problems for the liberal democracy. On the one hand these articles on religious freedom are based on the assumption that there are native religions in India, like Hinduism, Buddhism, etc. According to this assumption all the practices (irrespective of evil of good practices) of this land belong to one or the other religions. However the same state is also playing a role of a social reformist, eradicating the evil and discriminatory caste system which is against the spirit of human rights, a principle that the Indian constitution is upholding. The secular and progressive intellectuals are demanding eradication of many practices precisely because they are inhuman corrupt practices; therefore they legitimize social oppression in the name of religion. Recently, in Karnataka, progressive thinkers are forcing the government to ban some practices like Madesnana, Sidi, and so on. If government tries to ban practices of people because they are not truly religious, then definitely it will end up in curbing the fundamental rights of those who believe it.

This paper tries to illustrate afore mentioned problems by considering Madesnana as an instance. Madesnana is a ritual performed in South Canara district, Karnataka. The discussion about this ritual is mainly divided in to two extremes: One party holds that these rituals are legitimate practices of Hinduism; another says that they are the corrupt practices which violate principles of human rights. Present article argues that this ritual has nothing to do with religion, therefore it needs a systematic argument to bring it under the religious rights articles, and the allegation of the progressives that it sanctifies caste system of the Hinduism is also therefore baseless.

Dušan Deák
Department of Ethnology and World Studies, University of SS Cyril and Methodius (Trnava, Slovak Republic)

Violent Mlechha or loving Bhakta? Changing Representations of Islamicate Polities in the Marathi Hagiography

During the earlier part of the second millennium C.E. various peoples of mainly Turkish and Persian ethnic backgrounds, but all of them subscribing to Islam, initiated the gradual socio-cultural changes that to many extents modified South Asian societies. The story of Islam in the subcontinent, whether conceived in cultural or religious terms, backed as it was by the powerful armies of Sultans and complex as it was in the manifold ways of its realization, however, could not pass without the response of those South Asians that did not subscribe to any form of allegiance to Islam. Such response can be also found in the vernacular hagiographical writing from the early modern period. Despite being usually classified among the devotional texts, the hagiographical compositions bear an imprint of the contemporary social conditions during which they were written. In this context hagiographies present a rich material for a historian to examine. This paper attempts to interpret the portrayals of meetings and interactions between the Mlechha/Yavan raja of Bidar and the local bhakti saint as they are found in the popular and well-known Marathi hagiographies composed from 16th to 19th centuries. The paper argues that what may be perceived as a portrayal of interaction between the two supposedly opposite agents coded in terms of modern identities of Hindu and Muslim, or alternatively as their conflict, in fact documents how the relations between the contemporary regional polities and their patronization of the 'men of letters' were translated in the hagiographies into the different contemporary articulations of political dominance of Islamicate polities and their presence in the Marathi Deccan.

Sunday 25 November, 9.00-11.00, Seminar Room 3
Religious and Communal Violence 1
Chair: Sarah Claerhout

Anirudh Garga

Religious Conversions and Law in India

Right from the days of civilization of the human race religion formed the basis of his customs and practices. Throughout the world many religions emerged and brought many into their fold. Each religion had its own tenets, principles and practices. Religion played a major role in the administration of a country as it was believed that King was the representative of God (Divine Origin Theory). Later religions started converting people of other faiths into their belief to increase their numerical strength and power. Conversion by free choice is where one converts, on his own, to another religion appreciating its better spiritual values. Conversion for convenience is where the converted feels he will get better educational, social, financial, health, marital and other facilities. Forced conversion is where the religion is thrust upon one where the converter uses his undue influence upon the converted. But when it is forced and no action is taken to prevent it calls for a look into the system of administration and questions the existence of secularism and freedom of thought and belief.Art.25 of the Constitution of India and Art 18 of the UDHR guarantees freedom of religion.

In modern society people are free to profess the religion of their choice. But forced conversion has become a menace of late and is causing changes in demography, it leads to communal disharmony. In India forced conversion has become a big challenge for the administration. To prevent forced conversion we have to evolve a clear and unambiguous set of rules and regulations. It calls for proper legislation. Although many states in India have their own legislations against this, the need of the hour is a pan Indian statute to control this menace. The political community should come together burying differences to come out with an effective law which will prevent forced conversion.

Jhuma Sen

Secularism, Hindutva and Democracy: Notes on Multiculturalism from India

The paper will essentially underline some of India's experiments with the multiculturalism project after glancing at India's multi-cultural society in Pre-modern times, the Indian Constitution as the multicultural document and cultural chauvinism and cultural nationalism that has re-emerged threatening the rupture of the fabrics of multiculturalism in the subcontinent. The first part of the paper appends to the rhetoric of multiculturalism and pluralism as it has existed in the books of history and political thoughts before engaging with the questions of multiculturalism in the subcontinent as it has been practiced in pre-modern and modern times with an emphasis on the emergence of secularism as the new civic religion; the second part will document India's experiments with secularism as 'fuzzy multiculturalism' on a policy level on public as well as private domain through the written Constitution which essentially acted as a multicultural document; the third part will articulate some of the key debates to India's multicultural venture including the debate around uniform civil code and the Shah Bano case while the fourth part will look into the threats to multicultural practices as evident from the rise of cultural nationalism and Hindutva politics in recent times. The principal argument is to critique the multicultural secularism in India and show the relationship between juridical and political constructions of secularism that has resulted in an exclusivist organic crisis. In this I have carefully selected the Shah Bano judgment and its aftermath and the Hindutva judgments where the political constructions of secularism have influenced the juridical notion of it.

Sunday 25 November, 9.00-11.00, Seminar Room 3
Religious and Communal Violence 1
Chair: Sarah Claerhout

Sarbeswar Sahoo
Department of Humanities and Social Sciences, Indian Institute of Technology
(New Delhi, India)

Competing Projects of Conversion and Religious Violence in India

Religious conflict has a long history in India. Religion and exclusivist religious identity have acted as sources of conflict in India during the post-colonial period. Although Hindu-Muslim conflict had been, what Varshney (2002) calls, the "master narrative" of Indian politics, it is observed that since the 1990s the Christian populations have increasingly become the targets of violence. What is interesting is that most of these atrocities have occurred in provinces that not only have a sizable tribal population but also are ruled by the Hindu nationalist Bharatiya Janata Party (Indian Peoples' Party -BJP) or its allies. The central question then is why has violence against Christians increased in the tribal-dominated, BJP-ruled provinces in particular? The paper argues that in order to explain this, it is important to understand the political economy of the tribal society as well as the politics of Hindu nationalism and Christian missionary activities during the post-colonial period. Drawing on fieldwork in the tribal dominated regions of Rajasthan in Western India, the paper concludes that economic "backwardness" and contested cultural identity of tribals on the one hand and the competing projects of "conversion" by Christian missionaries and Hindu nationalists on the other are responsible for this increasing anti-Christian violence in India.

Devaiah N.G. & Sheshadri G.B.
School of Law, Christ University (Bangalore, India)

Different Facets of Secularism

In the present day political scenario the concept of secularism is gaining more importance as its impact has been felt in all societies including western (European) and Indian society. The western (European) notion of secularism can be understood with the idea that they consider religion as something which will eventually wither away or marginalized due to modernization and advancement in science and technology. It is further supported by the belief that influence of religion is declining in political, social and economic spheres, besides the other aspect is the idea that religion should not have a substantial say in matters of public sphere. Contrary to this idea is the Indian notion of secularism which recognizes and accepts the importance of religion in all spheres of life and assigns it a pluralistic definition. This article makes an attempt to explore the ideological and historical evolution of secularism in western societies (European) and focuses on the concept of secularism as practiced in India and its analysis in comparison to western notion of secularism.

Sunday 25 November, 9.00-11.00, Seminar Room 4
Secularism in Europe and India 1
Chair: Farah Godrej

Subrat Rath
Centre for the Study of Social System, Jawaharlal Nehru University (New Delhi, India)

Religious Entrenchment of Secularism in India: Studies in Sociology of Religion

Contemporary use of the concept of 'Secularism' is not only confused by the Indian Politicians but also by their International Counterparts too. It is true that in the West this Ideology took its origin primarily in the context of Church-State conflict while in the Indian context it grew out of the Religious Pluralism especially when there arose conflicts between religions at the time of British Rule and after independence. After independence Indian Democracy has followed the Gandhian and the Nehruvian concept of Secularism on the one hand and side by side the idea of humanism of Tagore and socialism of Lohia on the other hand. In the beginning of the Preamble of the Indian Constitution the word 'secular was inserted in the 42nd amendment, which guarantees the state not to be involved in any type of authorization to religion as state religion and should treat all religion to be equal under law. However, there are certain exceptions of the western ideology of secularism in India, for example: the retention of different laws for different religious groups in the matter of marriage, divorce, inheritance, adoptions, etc; maintenance of religious institutions from the consolidated fund of India; creation of religion centric higher learning institutions; subsidies in pilgrimage and many more.

Hence in this juncture, the main aim of my paper is to find out how the Indian notion of 'Secularism' is religion centric and different from that of the western conceptualisation? That means how a foreign idea is indigenized and modified in practice? And finally, its positive and negative consequences in a politically aggressive Indian society.

Sunday 25 November, 9.00-11.00, Seminar Room 4

Secularism in Europe and India 1

Chair: Farah Godrej

Devesh Saxena & Shreshta Banarjee

School of Law, Christ University (Bangalore, India)

Law & the Myth on the Concept of Secularism

India is a land of diverse deities and religion and is given immense importance by the people of this country. The Constitution respects and guarantees the freedom to practise any religion, and thus India calls itself a 'secular state' which is enshrined in the Preamble of our Constitution. But with a Hindu dominating society in this country, the Constitution and legislation has not been able to stand on the definition of what 'secular' means. The paper provides a brief note on the understanding of the term secular and how this ideology is evolved in India.

This paper focuses on the flaws of the Constitution and the legislation which has failed to keep themselves neutral in matters of religious affairs, thus showing clear biasness towards a religion. This paper goes on to remark the recent 'Cow Slaughter Bill' passed in Madhya Pradesh and planning to be passed in Karnataka and spectacles the tussle between the executive and the religious groups and how it affects the sentiments of different religious groups of our nation. This paper also talks about some interesting practices, rules and customs which support a particular religion, thus propagating a particular religion which we generally tend to overlook. These kinds of practices which are followed in a nation where people have a lot of faith in religion, tends to create a lot of negative impacts on the society which are discussed in the paper. The paper tends to provide a pressure valve which arises due to religious differences on being secular by the state as well as its citizens. Thus the vital question on the usage of the word "secular" as enshrined in the Preamble of our Indian Constitution is asked and answered accordingly.

Sunday 25 November, 9.00-11.00, Seminar Room 5

Gender and Law

Chair: Naomi Goldenberg

Namrata Ganneri

Department of History, SNDT College of Arts & SCB College
of Commerce & Science for Women (Mumbai, India)

New Media and the Icons of the Hindu Right: An Analysis of the Telefilm 'Tejtapaswini'

The perception of the Hindu Right as a monolithic politico religious structure with a standardized vocabulary has long been dismantled. In contemporary times, it frames itself in myriad ways to reach diverse audiences. The women's organizations of the Right offer rich possibility of exploring this dissonance.

This paper examines the key icon foregrounded by the Rashtra Sevika Samiti (hereafter Samiti), the founder Laxmibai Kelkar (1905-1978). I particularly would like to focus on the telefilm , Tejtapaswini(Hindi, 2005) produced on the occasion of the birth centenary celebrations of Laxmibai Kelkar. The tentative forays of the usually reticent Samiti into the terrain of this new media makes this hitherto unanalyzed film an important text in the process of legitimizing the Samiti and reaching out to the transnational Indian. This paper also analyses the ways in which the new audiovisual technologies may organize and challenge patterns of seeing for purposes of political mobilization and ideological indoctrination. This film, in fact, straddles various spaces, Gandhian constructions of 'self effacing femininity', Indian women's movement and inscription of the Right wing women into the contemporary historical frames. Through an appropriation of Hindu rituals and traditions, women are uniquely placed to construct the Right as a religious movement belonging to the realm of the sacred rather than a political one and belonging to the world of the profane. Further in the act of consumption of these texts, the audiences deify the images, which are then elevated to the level of the sacred, and result in mobilizing women in political spaces and agendas governed by militant religiosity in this age of globalization.

Since the state archive and conventional historical sources seem impoverished when confronted with the challenges of chronicling the Hindu Right, a study of this iconography embedded in mediatised spaces is essential for the writing of history of the Hindu Right.

Ahmed Sohaib
Centre for Comparative Religion & Civilisations, Jamia Millia Islamia (New Delhi, India)

Vilifying Female, Edifying Men: Physio-Moral Discourse on Body in Early Buddhist Texts

Early scholarship on Buddhism credited it with a radically egalitarian and progressive posture towards women, unlike the Brahmanical tradition that relentlessly denigrated and was harshly inconsiderate towards them. Later 20th century saw revert of attention to the theme of 'women in early Buddhism'. However, this regenerated interest did not lay out any radical shift from the hitherto adumbrated positions. Recent scholarship has underscored a critical need to revalorize early Buddhist attitude towards women to better seize streaks of sexism and patterns of patriarchal smudge in early Buddhist thought. The multi-vocality and ambivalence of early Theravada texts calls for discrepant reading of discourses and cautions us against the trap of viewing early Buddhism's social trajectory as solely emancipatory and perpetually inclined towards women. There is thus an urgent need to tease out the complexity of dynamics of gender, enmeshed in narratives peppered with harsh condemnations and despicable figurations of the feminine, where women and more so their beautiful form (body) undergo horrendous physiovisual mortification for men's—mostly monks—tutoring on the sublimity of 'impermanence'. Such prescriptive edifications, through contemplation and gaze on the rotting—once beautiful—female body abound in some of the early Buddhist texts. Taking a cue from it, this paper interrogates Buddhism's stance on women and calls into question the dominant assertion in scholarship of it being level-headed in treatment of gender.

Sunday 25 November, 9.00-11.00, Seminar Room 5
Gender and Law
Chair: Naomi Goldenberg

Naomi Goldenberg
Department of Classics and Religious Studies, University of Ottawa (Ottawa, Canada)

A Theory of 'Religions' as Vestigial States and its Implications for Laws about Gender and Religion

This paper forms part of a larger project presenting the hypothesis that it is clarifying and productive to think of religions as vestigial states – that is, as the cultural remnants of former sovereignties that persist within current governmental jurisdictions. I contend that 'religions' are composed of basic discursive and institutional practices similar to contemporary governing states. The chief differences between the two kinds of states are the abstractions they cite to justify their authority and the fact that the right to wield violence is always denied to vestigial states called religions.

In this presentation of the theory, my focus will be about how the idea could be helpful in understanding so-called 'religious' and 'secular' conflicts that pertain to law about gender. I will argue that 'family' issues are often ceded to the authority of religions – i.e. vestigial governments –in ways that military and economic issues, for example, are not. Thus, that which relates to domesticity, sexuality and the conduct of women constitutes the foundation of 'religious' power. What is 'religion' and what is 'secular' is less a matter of any essential distinctness but rather a matter of jurisdiction.

I will discuss three recent developments in law about gender and religion in North America and Europe to show that both so-called 'secular' and 'religious' legal processes are more similar than they are different. The first example is a discussion about Jewish divorce in Canada; the second is a conflict about Sharia law in Ontario and the third concerns a German judge's use of the Koran to decide a matrimonial dispute. In each case, both 'religious' and 'secular' legal positions can be shown to be products of similar social motives and political compromises with stakeholders. I will conclude with the suggestion that use of the religious/secular binary in issues pertaining to law about gender is unnecessarily confusing and should be curtailed.

Kathleen McPhilips
School of Humanities and Social Sciences, University Of Newcastle (NSW, Australia)

Women, Religion and the State in Post-secular Australia

This essay considers the contemporary relationships between women, religion and the Australian state via an examination of two case studies. The field of analysis is post-secularism which de-stabilizes the political ideal that religion and state should remain separate. Much of the social research into religion-state relations over the last ten years, particularly post-Sept 11th, demonstrates that religious groups and ideas are actively engaged in public debate, policy formation and implementation. In Australian public life, this has been demonstrated through the work of Gary Bouma and Marion Maddox, amongst other scholars. However, there has been little research on the relationship between gender and post-secularism. This essay will draw on the work of Jakobsen and Pellegrini (Secularisms 2008 Duke University) in providing a framework for analyzing gender and post-secularism in Australia and ground this in two case studies. I will argue that the state uses the status of women as a litmus test for the quality of citizenship, yet allows religious groups via legislation processes exemption from such citizenship thus in effect promoting the discrimination of women.

In both cases it will be argued that the state uses religion to firstly position the status of women as an exception to the normative condition of masculinity; and secondly that the state constructs particular definitions of religiosity that function to manage women's claims to citizenship. In short, the state manages religious women in a contradictory and strategic manner, much of what is not in the direct interests of women.

Sunday 25 November, 9.00-11.00, Seminar Room 5
Gender and Law
Chair: Naomi Goldenberg

Manisha Sethy
Centre for the Study of Comparative Religions and Civilizations, Jamia Millia Islamia (New Delhi, India)

Jain Widows and Legal Texts in Colonial Courts

The paper examines the encounter between ancient Jain law texts such as Bhadrabahu Samhita, Arhana Niti and Vardhamana Niti and the colonial impulse of evolving a criterion for establishing the validity of custom and practice in order to frame laws for arbitering justice in the courts of law. Since the earliest days, the Jains presented a predicament: being outside the purview of the Shastras - the basis of Hindu Law - the Jains were deemed to be distinct from Hindus, and hence eligible to be governed by their own laws and customary practices; on the other hand, the Privy Council of 1921 declared them to be "Hindu dissenters" to be judged by Hindu law. Within the Jain community too, the question of their distinct legal status remained an unresolved dilemma; at the heart of this vexation lay the specifically Jain legal practice of widow inheritance - laid down in Badrabahu Samhita, a text widely accepted by the Digambars and Svetambars alike - in contradistinction to the Hindu jurisprudence where the son or the close male agnates of the deceased inherit his property. Not only did the deceased's widow inherit the dead man's property, she also enjoyed absolute and final authority over its use and disposal. In the early years of the 20th century, prior to the passage of the 1937 Hindu Woman's Right to Property Act, there was a veritable deluge of litigation contesting the right of the widow to inherit and dispose the dead husband's property. Deprived of control over their dead relative's property, the male agnates petitioned the colonial courts demanding that the Jains be governed by the Hindu law of succession and inheritance.

A survey of a few litigation cases lays bare not merely the variegated encounter of ancient law and custom with the colonial legal institutions, but also the manner in which this process was shaped by the patriarchal anxieties about control over property and the colonial exercise of mapping communities into tidy categories in order to create an administrable subject population.

Sunday 25 November, 9.00-11.00, Seminar Room 6

Special S.D.M. panel: Caste System and Indian Religion

Chair: G.R. Jagadish

K.R. Aithal

Dean and Professor, Karnatak University (Dharwad, India)

Religion as a Basis of Caste System in India

G.N. Bhat

Principal Bharathi College (Mangalore, India)

Religion vis-à-vis Caste System in India

Amar Kumar Pandey

Indian Police Service, Government of Karnataka, India

Thoughts on India Studies

Monday 26 November, 9.00-11.00, Seminar Room 1

Religion and Tradition

Chair: Venkat D. Rao

Nora Melniková

Department for the Study of Religions, Masaryk University (Brno, Czech Republic)

The Modern School of Vipassana - Buddhist or Secular?
The Question of Conversion in Indian Context

In my paper, I would like to pose the question of relevance of the term "religious conversion" in the context of modern Indian traditions proclaiming their secular character, using the example of S. N. Goenka´s school of Vipassana, and draw wider conclusions about the usage of the term in the context of Indian traditions in general. The first step is to discuss the role of the term "religious conversion" in the theoretical teachings of the Vipassana school. How does Goenka, a Hindu by birth who grew up in a Buddhist country, understand religious conversion and what are the presuppositions of his understanding? What allows him to claim the secular character of his school and what causes others to perceive it as Buddhist? And more generally – what are the implications of the usage of the term "religious conversion" in the context of the so called "Hinduism" and "Buddhism"?

These questions inevitably lead to the consideration of the nature of the terms "Hinduism" and "Buddhism". The relevance of using these terms in the context of Indian cultural landscape has been considered doubtful for a few decades now; but do we have tools to grasp the realities in a different way?

My paper is based on the Vipassana school textual materials with regard to the difference between the contents of Hindi and English materials, e. g. Goenka´s usage of the term dhamma /religion.

Shankarappa N.S. & Shanmukha A.
Centre for the Study of Local Cultures, Kuvempu University (Shimoga, India)

Secularism and the Religious Market in Scandinavia

This paper deals with the following two questions: 1. How do 'Dalit' scholars as well as activists perceive the process of proselytization? 2. What are the consequences of this perception? Most of the 'Dalit' scholars and activists suggest that conversion of 'Dalits' from 'Hinduism' to other religions is a very important tool to improve the social, economic and religious status of 'Dalits'. At the same time some others try to show that the social status of the converted Dalits remains as that of the original 'untouchables' of 'Hinduism'. Many of the converted Dalits say that they have a feeling that they neither belong to their traditional old 'caste' nor belong to Christianity. Even though 'Dalit' scholars and activists are trying to identify these problems of the converted Dalits, they are not against the process of conversion. Instead they blame the Hindu upper castes, bishops and clergies of Indian Christianity for this plight of the Dalits. The present paper prefers to argue that the process of proselytization has made the converted Dalits socially alienated people, alienated from their old 'caste' (traditional society) as well as from Christianity, rather than emancipating them. Thus the process of conversion instead of solving the existing problems of the Dalits creates an additional problem for the converted Dalits. This point will be illustrated with the results of our field work on marital and ritual practices of 'Christian Dalits' of Karnataka.

Monday 26 November, 9.00-11.00, Seminar Room 1
Religion and Tradition
Chair: Venkat D. Rao

Tomáš Avramov
Faculty of Theology, University of South Bohemia (Ceske Budejovice, Czech Republic)

Contemporary and Recent Indian Masters, Gurus and Sages and the Theme of Religious Conversion (and a brief comparison with the attitudes of contemporary Indian Catholics, especially Thomas Christians, to the same topic)

If we study the sayings, attitudes and teachings of various recent and contemporary Indian masters (e.g. Narayana guru, Shirdi Sai Baba, Anandamayee Ma, Neem Karoli Baba, Bhagwan Nityananda, Ramana Maharishi, Dada Vaswani, Papa Ram Dass, Amritanandamayi Ma, Swami Shivananda) and their foremost disciples, it is obvious that the notion of religion especially in its institutionalized and partialized aspect plays no important role for them (perhaps except when they reject it). When they speak about religions, they see them rather as the complex sets of methods given by various masters to humanity in order for human beings to evolve, on the path to liberation and unity. This leads to their conclusion that the religious conversion is something unnecessary, even unwanted, because they are convinced that everyone is born into the culture and society which is the best for his or her development on the above mentioned path, so there is no need of a change of religion. That also means that although these masters and sages show great respect for any religion and although they are convinced that all religions lead to the same goal, they reject any claims for superiority or uniqueness (in the salvific meaning) of any religion. On the other hand, they are able to speak with members of any religion and use the terms and notions of that religion in the way that the listeners get deeper and broader understanding. As it was already said, masters see themselves as simply using and giving any method that can be helpful to their fellow human beings regardless religious systems. Brief comparison with the teachings and opinions of contemporary Indian Catholic scholars and philosophers (S. Painadath, N. Sheth, K.P. Aleaz, H. D´Almeida, S. Kanichai etc) shows that they tend to have in this field very similar attitudes to those of above mentioned Indian masters. As the II. Vatican council brought in the Catholic church certain spirit of openness, many Indian Catholics use it in every possible and elaborate manner to advocate harmony among religions and the unity of their goals. In this way, they also came to the conclusion (although often not so explicitly articulated), that there is no need for religious conversions.

Waheeda Amien
University of Cape Town (Cape Town, South Africa)

The Incorporation of Muslim Personal Law into the Indian Secular Legal System: Lessons for South Africa

South Africa is in the process of discussing how minority religious personal law systems can be incorporated into its secular legal system. In particular, South Africa is debating the manner in which Muslim family law can and should be recognised as state law. In fact, South Africa is considering draft legislation entitled the 'Muslim Marriages Bill', which seeks to regulate Muslim marriages and divorces. Since India has a long and rich history of accommodating its minority religious personal law systems, this paper aims to reflect on the Indian experience, with particular reference to its legislative and judicial interventions relating to Muslim personal law for the purpose of obtaining insights that could be useful to South Africa. Apart from an examination of the South African Muslim Marriages Bill, consideration will be given to the Muslim Personal Law (Shariat) Application Act 26 of 1937, the Dissolution of Muslim Marriages Act 8 of 1939 and the Muslim Women (Protection of Rights on Divorce) Act 25 of 1986 as well as case law including among others, Bai Tahira v. Ali Hussain Fidaalli Chothia and Another (1979) 2 SCC 316, Fuzlunbi v. K. Khader Vali and Another (1980) 4 SCC 125, Mohd. Ahmed Khan v. Shah Bano Begum and Others (1985) 2 SCC 556 and Danial Latifi v. Union of India (2001) 7 SCC 740. The main aim of the paper will be to explore whether or not the Indian experience has managed to incorporate Muslim personal law into its secular legal system in a way that does not negate women's right to equality and if so, how it has been able to accomplish that.

Monday 26 November, 9.00-11.00, Seminar Room 2
Religion and Law 2
Chair: Prakash Shah

Kalindi Kokal

Not so Plural: Muslim Law in Taluka Courts

In light of an on-going research study aimed at understanding whether and how people access their Economic and Social Rights through claims in the lower judiciary; an interesting point that comes to light concerns the position of Muslim lawyers and litigants in the taluka courts. The paper focuses on responses from two talukas in Maharashtra which have a fairly sizeable Muslim population – Paranda taluka in Osmanabad district and Junnar taluka in Pune District. On speaking to Muslim lawyers in the taluka courts in these areas we find that the proportion of Muslim litigants in these courts is fairly small and the application of Muslim personal law is irregular.

For instance, in these taluka courts the judges are deciding maintenance applications of Muslim women in the same manner in which they would decide the applications of non-Muslim litigants. The husbands are being directed to pay maintenance to the woman on a monthly basis for periods longer than the iddat period, even though this ought not to be the case under their personal law. Incidentally, in these taluka courts one observes that majority of the judicial staff and lawyers are Hindu!

This paper seeks to understand the position of religious minorities in the 'secular' set-up of the judiciary through experiences of Muslim lawyers and litigants in the court.

Rajashree Patil

Religion and Law in India

India is a secular country and therefore has no state religion. However, it has developed over the years its own unique concept of secularism, despite the clear incorporation of all the basic principles of secularism into various provisions of the Constitution when originally enacted; its preamble did not then include the word secular in the short description of the country, which it called a "Sovereign Democratic Republic." This was, of course, not an inadvertent omission but a well-calculated decision meant to avoid any misgiving that India was to adopt any of the western notions of a secular state. Twenty-five years later India's peculiar concept of secularism had been fully established through its own judicial decisions and state practice, the preamble to the Constitution was amended to include the word "secular" (along with "socialist") to declare India to be a "Sovereign Socialist Secular Democratic Republic." Constitutionally, India is a secular nation, but any "wall of separation" between religion and state exists neither in law nor in practice, the two can, and often do, interact and intervene in each other's affairs within the legally prescribed and judicially settled parameters. There was a time in Indian history when religion provided, regulated, and fully controlled the legal and judicial system of the country. Today the situation is the other way round.

However even today, religious values and traditions continue to have a strong influence on Indian society, this religious aspect remains duly reflected in the Constitution and the quickly growing body of national laws. The practice and interpretation of secularism in India have from the very beginning been very sensitive and reconciled with the ground realities, this sensitivity and reconciliation make India's religion-law relations both unique and fascinating. However in my paper I would throw more light on the interlink between the law and religion, I have focused on various laws such as the provisions from the Indian Penal code, constitutional provisions and the provisions from the Representation of People's Act, and moreover India being a secular country has to enact laws with an extra over thought on the prevailing emotional attachment of the people towards their religion, however my paper even emphasis on the various laws which portrays towards protection towards all the religions which aims towards securing the balance between the law and Religion in India

Sai Bhatawadekar
Indo-Pacific Languages and Literatures, University of Hawaï (Honolulu, USA)

Advaita Makes the Most Sense: 19th Century German Streamlining of Hinduism

Germany may have been behind England and France in the colonial race, but German intellectuals prided themselves in their ability to understand India intellectually, philosophically, and culturally.Drawing on British and French translators of Hindu texts - H. T. Colebrooke, Sir William Jones, Anquetil Duperron - German philosophers, such as G.W. F. Hegel's and Arthur Schopenhauer played a crucial role in streamlining a conceptual definition of "Hinduism," which permeates its global understanding till date. I argue that even though Hegel rejects Indian thought as primitive and savage, and Schopenhauer embraces it as timeless wisdom, they both impose three concepts on Hinduism as its defining features: they establish that Hindu religious thought presents 'brahman' as the absolute divine principle; it declares the manifest world as an impermanent illusion; and finally, as ultimate knowledge it upholds the insight into the oneness of all things in 'brahman.'

This analysis is significant in tracing how the school of non-dualism - Advaita Vedanta - and intense world-renouncing meditation come to homogenize the variety of schools in Hindu religion and philosophy. Rather than judging "misunderstandings," my study is a comparative philosophical endeavor that reveals the complexity of cross-cultural history of ideas: with Gadamerian "hermeneutic consciousness" I examine the precepts of Hegel's and Schopenhauer's philosophical systems that dictate their interpretation, and with "hermeneutic suspicion" (to use Ricoeur and Habermas) I uncover their appropriation, selective reading, and restructuring of the then available European sources on Hinduism.

However, contrary to the insistence on Eastern passivity in its Western interpretations, I propose a step to rethink Eastern agency in this encounter: I demonstrate that the interpretation and incorporation of Hinduism not only influenced the direction but on occasion subverted the conceptual consistency of Hegel's and Schopenhauer's systems of thought.

Ipshita Nath & Anubhav Pradhan

Centre for English Studies, School of Language, Literature and Cultural Studies, Jawaharlal Nehru University (New Delhi, India) & Department of English, Jamia Millia Islamia (New Delhi, India)

Being Hindu - Being Us, Post-Colonial Perspectives on Hinduism(s) in the Twenty-first Century

One of the distinctive features of Hinduism is the sheer plurality which has gone and still goes into making it. Be it etymologically or conceptually, the faith we today call Hindu is compound of a variety of historical forces, many of which were exterior to its ambit and selfhood. Instead of being one faith, Hinduism is a set of faiths, practices and value systems held together by a common, widespread conception of being Hindu.

What that might be has, of course, been a matter for intense comment. Without going much into those speculations, this paper will attempt a brief yet comprehensive commentary on what being Hindu is increasingly coming to mean in our own day and age. To that effect, it will begin with that fortunately unfortunate tool, teleology: it will, putting together various sources and scriptural material, present a concise history of Hinduism from its historically ascertainable origins to the advent of Indian modernity in the latter half of the nineteenth century. It will then discuss the influence of both Anglicanism and nationalism in consolidating a curiously contradictory pan-subcontinental Hindu identity. Taking this consolidated identity as an arbitrary standpoint, it will then move on to its central thesis and examine the subtle, almost invisible limitations being enforced upon the Hindu faith(s) due to globalisation, the growth of consumeristic commercialism and an English language oriented cultural modification of the meaning of being not just Hindu but also Indian. It will conclude with the contention that these limitations dangerously narrow the scope and nature of Hindu plurality – and the inclusiveness inherent in plurality – to a jingoistic monotheism devoid of tolerance and suggest some discursive practices for reversing the same.

Monday 26 November, 9.00-11.00, Seminar Room 3
The Colonial Construction of Hinduism 2
Chair: Sandeep Kumar Shetty

Cezary Galewicz

Department of Indology, Jagiellonian University (Krakow, Poland)

Ghost Books and Twisted Identities of Textual Communities:
Toward an Ecology of Cast and Religion

There is still a lot to be said on mutual relationship between texts, casts and religions, not only between ideas, social status and beliefs but between material objects, communities of their users and religious practices. Religious texts can connote meanings not only through what they say but also how they are perceived as objects set in motion, how they are recast, recycled, circulated, handled and utilized. Trajectories of circulation that can be mapped across cultural geographies and physical spaces offer an opportunity to think of and study ecology of cast and religion in micro, local and regional eco-systems made of coexisting communities sharing often the same space.

The idea of eco-system has been explored for some time in humanities and proved useful among else in articulating problems of how various literary cultures in different languages would share one space, in what ways place, location, territory and geography might prove crucial categories for new developments in such disciplines as anthropology of knowledge and religion.

A case study of a re-casted compendium of Rgvedadaśagrantha, its recent recycling, and re-circulating in the form of printed objects put to a semi-official circuit of pothi-shaped books across Maharashtra and claiming to represent a canonical set of religious texts shall be presented against a diffusion of an idea of a canon of supposedly genuine oral tradition. New trajectories of such a recycled idea of canon prove to re-link various religious communities across the region of its circulation and thus create a new space for understanding their mutual dependence. The paper attempts at reconstructing recent history and effects of such recirculation through a combined study of texts as material objects and the imagined community of their users.

Conducted by

Pranusha Kulkarni
Department of Law, Karnataka State Law University (Hubli, India)

How to Educate Indian school Students about the Effects of Colonization on what they are Currently Studying?

This question is very much pertinent in the present context because, the foundation of a person's personality is laid during his/her school days, and it is very easy to impress the truths on younger minds, than at the level of doctoral or post-doctoral research.
For a holistic change in the way Indians look at, and understand themselves, they need to be made aware of the colonization of our education system since they become integral parts of this education system. Only then will the mission of this Conference Series be fruitful.

Monday 26 November, 9.00-11.00, Seminar Room 4
Workshop: How to Teach about the Indian Traditions?

Malcolm Voyce
Department of Law, Macquarie University (Sydney, Australia)

The Teaching of Buddhism and Law

This paper deals with the issues surrounding, the teaching of a course on 'Buddhism and Law'. I firstly, outline the background details of the students and my personal background in teaching 'Buddhism and Law'. Secondly, I address what I see the pedagogical challenges in this course and how I attempt to meet them. Thirdly, as the Vinaya is the basic code which defines monastic life and the students and are enthusiastic 'rule-interpreters', I concentrate the rest of the paper on the way I deal with the Vinaya in this course. The process of reading texts in a different ways helps students find new ways to understand religious/legal texts found in indigenous cultures and religious legal systems. I itemise two areas where these factors emerge. Firstly, some scholars have argued that even with the demise of the influence of religion, the category retains its uncontested and 'pretheoretical' privilege. In other words, students still carry around Christianity's essential terms even though they may see themselves as non-Christians (Balagangadhara 1993: 284-5).

Buddhist narratives might start with the situation of the primal conditions of ignorance, its consequent suffering, moving on with the intention of awakening, culminating into the insight of emptiness of all conditioned existence and the liberation of all sentient beings (Payne 2006:48). This sequence may easily be framed into the movement in Christian terms from creation and fall to redemption. While this journey may be similar, in Buddhist experience my point is not to deny the universal parallels involved in the unfathomable human journey for meaning, but rather the dangers of not seeing each cultural journey in terms of its own experience. Secondly, many law students understand law as being based on the values within our modern form of culture, on such ideas of self-hood and the centrality of the notions of 'authority' and 'obedience'. Davis advises, as a corrective, that this approach to law 'is hopelessly exceptional, limited historically to recent centuries and geographically by and large to European countries and their current and formal colonies' (Davis 2007:243).

Monday 26 November, 9.00-11.00, Seminar Room 5

Special S.D.M. panel: Secularism and Law

Chair: Shankar Bhat

Girish K.C.

Professor of Salgocar Law College (Panjim, India)

Secularism vis-à-vis Religious Values in Educational Institutions

B.S. Reddy

R. L. Law College (Davanagere, India)

Equality of Religions – A Comparative Legal Approach

Nancy Chandrakumar

Shri Dharmasthala Manjunateshwara (S.D.M.) Law College (Mangalore, India)

Religion, State and Law in India

Malvika D.

Shri Dharmasthala Manjunateshwara (S.D.M.) Law College (Mangalore, India)

Indian Religion and Law

Monday 26 November, 9.00-11.00, Seminar Room 6

Special S.D.M. panel: Religious and Communal Violence

Chair: Dr. Moodithaya

Prabhakar Joshi

Former Principal Besant College (Mangalore, India)

Justice Dispensation System in Dharmasthala

Ananthakrishna Bhat

Shri Dharmasthala Manjunateshwara (S.D.M.) Law College (Mangalore, India)

Communal Violence, Sociological Issues

Rahamathullaha

Principal Badriya College (Mangalore, India)

Religion not a Basis for Communal Violence

Praveen T.L.
Centre for the Study of Local Cultures, Kuvempu University (Shimoga, India)

"Pseudo facts" in Kannada Fictions: the Mechanisms of Colonial Consciousness

The present paper mainly discusses how literature plays a predominant role in strengthening colonial consciousness in post-colonial India. It tries to understand the mechanisms within which the Kannada novels are strengthening the colonial frameworks among educated people through creating imaginary events which I prefer to call tentatively as "pseudo facts". These pseudo facts are the parts of the narratives in a fiction created through the author's imagination structured by the colonial framework, but taken to be representing empirical reality by its readers. Such pseudo facts are derived from the stereotypical image of India produced during the colonial period. In other words, novels create the pseudo facts according to the colonial stereotypes. However, they substitute for a reality which really does not exist in India, but only exists in the Western experience and descriptions, because they function as facts of our society to a mind which is oriented through colonial consciousness. They provide ideal examples for those who base their arguments on colonial descriptions of India. The intellectuals, researchers and activists who inherit the colonial framework find it convenient to depend upon these pseudo facts as the empirical reality of our society. As a result literature occupies a crucial role in entrenching the colonial consciousness deeper into our society. This point will be brought home through select examples of Kannada novels and stories in the present paper.

Tuesday 27 November, 9.00-11.00, Seminar Room 1
Rethinking the Caste System
Chair: Jakob De Roover

Pranusha Kulkarni
Department of Law, Karnataka State Law University (Hubli, India)

Sailing a Hired Boat - Why We Won't Make it to the Shores

'Caste' and 'religion' have transgressed the boundaries of personal faith and have trespassed into the realms of our public life. Of late, they have become determinants of whether we can rent houses and whether we can acceptably marry a person from a 'different' caste or religion. What was once pious and indubitably very personal, has metamorphosed into a marker of identity and one's social and political status in our national fabric.

However 'modernized' (notwithstanding its present dubious understanding) we may claim ourselves to be, our societal psyche is still entrenched in the judgmental attitude based on our brethren's religion and caste. Times are now that, every form we fill in – be it an application for the Voters' ID or the passport – very authoritatively asks of us, our religion, caste, and in some cases, our sub-caste too! It is as if we as a nation are suffering from Obsessive Compulsive Disorder with respect to our castes and religions! Why, admissions to higher education institutions, and jobs in the government sector are doled out based on castes; and there's the whole vote-bank politics cashing in on the fracas!

This paper embarks upon pointing out to the utter futility of all this. The paper also highlights our egregious failure in understanding our own dharma, culture and traditions (and our foolhardy in blindly assimilating the 'truth' of the 'Indian religions'). The paper very plainly explains, with first hand reference to scriptures and to reason, that no 'caste system' (as has been established by our myopic senses today) has been propounded by our ancient society, and that, all the present buffoonery is the result of jaundiced colonial consciousness. The paper tries to drive home the point that, even as we are sailing in this hired, somewhat shaky boat of misplaced religiosity and caste consciousness, chances are more that the boat will no longer be able to support our collective frenzy; even as we hide behind our own identities, not knowing who we are, and whither we are off to, the unknown and unnamed shore will never have our feet onto its pastures!

The paper concludes by an appeal to all of us: Let us build our own boat; for, we alone know

our seas. Let us know our dharma better; for, we alone can know ourselves better!

Kavitha P.N.
Centre for the Study of Local Cultures, Kuvempu University (Shimoga, India)

Caste Classification: a Note on the Classification of Lingaayata

Caste classification, a construct from the colonial period, has been recognized as if a reality, by the social scientists and the government. The social science theories depict an ideal image of caste classification, while its true picture in reality is something different. Consequently a chasm arises between such theories and reality. The present study makes an attempt to examine and understand this chasm by taking Lingaayat as its focal subject.

Many social scientists from the colonial period have studied Lingaayats as a caste and offer an explanation about its classification, as below: Lingaayat is a religion while several other castes assume the position of a caste and sub caste within it through the process of 'Lingadhaarane' (practice of wearing a 'linga'). This explanation implicitly points at 'Lingadhaarane' as a decisive constituent property in order for a human group to assume the position of a caste or a sub caste within Lingaayat. Such explanations depend on a Western religious background but do not make sense to Lingaayats. However, since the social scientists have accepted the western framework and continue to reproduce it, it has resulted in many unresolved debates about the origin and nature of Lingaayat: Whether Lingaayat is a caste or a religion? Whether Lingaayats belong to Hinduism? If not, do they form a separate dharma? How to account for those who are not referred to as 'Lingaayat' despite wearing a 'Linga'?

The present article attempts to account for the differences the exist between dominant description of the Lingayats as a caste and the existence of the sub castes among them and the prevailing reality about the Lingaayats. Until Madeleine Biardeau's work in the early 1970s which grounded her fieldwork in some preliminary scanning of the colonial record on the Tamil Draupadī cult, European scholars of the epics totally ignored such colonial information on the epics' real tribal and caste relevance within Indian subcultures, and preferred to continue constructing fantasies of the epics' imagined tribal or caste origins (or in George Dumézil's reformulation, meant to incorporate caste structures, "tri-functional" origins). The presentation will document and work out the implications of the opening observation, and conclude with some discussion of the Draupadī cult written in anticipation of viewing and discussing Shashikanth Ananthachari's film "Listen Draupadi."

Tuesday 27 November, 9.00-11.00, Seminar Room 1
Rethinking the Caste System
Chair: Jakob De Roover

Shanmukha A.
Centre for the Study of Local Cultures, Kuvempu University (Shimoga, India)

Dalit Atrocities Cases : Myth and reality

The reports in the media, Political leaders and most of the intellectuals commonly portray that the Dalits continue to be the victims of atrocities through the practice of untouchability in Indian society even after the implementation of the scheduled castes and the scheduled tribes (prevention of atrocities) act, 1989. The Indian government has implemented this act as an effective tool to free dalits from the practice of untouchability and thereby atrocities too. After two decades of the implementation of this act there have been discussions and studies on the result of implementation of the act and its implications on living condition of the dalits. Most of the time, the common impression in these discussions is that this act is a strong weapon to curb atrocities against dalits; but, the administrative machinery is not taking any interest in proper implementation of this act. Therefore, the dalits are not getting the justice that they deserve. This is the common concern about the fate of this act in these discussions. This article is an attempt to examine the reality of these claims. The real status of these cases, which reported under this act, are examined based on a report of empirical evaluation funded by the government itself.

As noted in the report, the victims do not show any interest in pursuing the case in the court after getting the monitory compensation that this law provides for and, the report says, this is the main reason for the huge pendency rate of these cases. In addition, it shows that the cases registered for the practice of untouchability are much lesser than the cases of other reasons. This article tries to point out that this act is (mis)used for conflicts other than untouchability practices, which is due to the problem in the theoretical framework that this act is founded or framed on. Mainly, there are widespread stereotypes in social sciences about upper and lower caste communities of Indian society based on the framework of the caste system. The commonsense shaped by these stereotypical descriptions, which are prevalent in intellectual field, are reason for the formulation of this act. Since this commonsense is not a social reality in India, people are interested in getting benefit out of this act rather than pursuing justice through it. Moreover, this article argues that this act is creating more problems to the people than solving any of the problems of the dalit communities in particular.

Simon Cubelic
South Asia Institute, Department for Classical Indology, Heidelberg University
(Heidelberg, Germany)

How to Read an Early Colonial dharmaśāstra Text? Reflections on the rnādāna-section of Sarvoru Śarman's Vivādasārārnava

The quest of the Bengal government for a codification of the norms of traditional Hindu jurisprudence (dharmaśāstra) led to the production of several Sanskrit legal treatises. One of those texts is Sarvoru Śarman's Vivādasārārnava ("Sea of the essence of litigation") (VS), which was composed at the instance of Sir William Jones (1746-1794), the renowned Orientalist and judge at the Supreme Court of Bengal, in 1789. The VS was supposed to mirror the legal traditions of Mithila. It remains unpublished and untranslated to this day. This paper discusses the chapter on "non-payment of debts"(mādāna). In dharmaśāstra-literature, the mādāna-section is often not restricted to the law of debt, but is also the locus where definitions and concepts of property and ownership are developed. Therefore, it provides useful material for the study of intellectual exchange in early colonial Bengal. The paper raises the following questions: Is the VS a product of colonial knowledge formation or should it be considered as a continuation of early modern scholastic traditions? Did Sarvoru's contact with a Western lawyer leave any imprints on the text? Was the author conscious that his text was meant to be a law code for the court-room and not a compendium of moral action (dharmanibandha)?

Tuesday 27 November, 9.00-11.00, Seminar Room 2
Religion and Law 3
Chair: Rajaram Hegde

Manojkumar Hiremath
Karnataka State Law University (Hubli, India)

Symbiosis of Religious Pluralism and Legal Secularism: A Death Knell to Legal Pluralism in India?

In the present scenario when Indian legal system is inextricably infused with western ideologies its little difficult if not impossible to revive the legal pluralism which existed in pre-colonial and pre-Islamic rule period in India. The obsessed embracement of western notions like Religion, Secularism, Rule of Law, Codification, Uniformity and Certainty has rendered legal pluralism of India to a fossils stage. In spite of that, there exist multiple, uncoordinated, coexisting bodies of law and making competing claims of authority constantly , hence State asserting its power to balance the competing claims making effort to bring harmony among them with secular law and uniform law. In this process there transpires an interface between religious liberty and Secularism, if former is hampered it strikes at constitutionalism and if latter is given more stress it affects legal pluralism. Hence there needs to be maintained an equilibrium, however it's hilarious task because, when world is moving towards bringing uniformity in private laws to accommodate hassle free global market in all jurisdictions, India has to swim against that flow to revive its heritage of legal pluralism. Thus when present trend of globalization effort of western world is directed towards bringing assimilative secularism in all jurisdictions and gradually perish the legal pluralism in the East. And instead of running away from the reality (i.e. India as on today is multi-religious and multi-cultural nation) what appears better is that India has to make intelligent choice between X or Y or Z kind of Governance policy, preferably indigenously and custom made policy which accommodates religious liberty at assures communal harmony, a policy which assures cultural autonomy without affecting unity and integrity of the nation , a policy which permits to have uniformity of laws to required extent but not at the cost of heritage of legal pluralism. Over and above all such governance should withstand the force of globalization which may result in colonization again.

Olga Atoian
Department of Constitutional, Administrative and International Law,
Mariupol State University (Mariupol, Ukraine)

Hindu Sense of Justice in the Context of Modern Legal Space

The article deals with the features of multi-faceted and pluralistic Hindu sense of justice, what is managed in the space of development to integrate both their deep religious and legal traditions. It's a new level of understanding the foreign standards (both - secular and religious). The most important feature is the spiritual component and rooted in the collective sense of justice such ideas as dharma, karma, adharma and ahimsa.

Tuesday 27 November, 9.00-11.00, Seminar Room 2
Religion and Law 3
Chair: Rajaram Hegde

Siddharth Dubey
M.S. Ramaiah College, Karnataka State Law University, Bangalore, India

Indian Civilization: An Overview

The Caste System of India is based upon a social stratification system, which is unique from the western conception of class and also different from the estate system. In this way India has very different system which is obviously misunderstood from different invaders, especially Britishers. Theological framework provides for sets of rules and principles, which is totally different from Hinduism ideology. For Ex- "Dharma" means way of life, but it is misunderstood as religion. "Prayer" and "pooja" are used invariably, but they are totally different phenomenon. Hence it is very clear that the notion of understanding Hinduism is biased on colonial construction. Finally we need intellectual efforts to treat the problem from its roots.

Rohit Dutta Roy
Department of Comparative Literature, Jadavpur University (Kolkata, India)

'Hindu' Writers and the Hindu Identity: A Comparative Analysis of Communalism and Literature during Colonial Rule

The spurt in the growth of patriotic literature post 1857 led to a valorization of native Hindu rulers and demonization of the Muslims. In this paper I would try to draw a trajectory of communalism in literature of the Nineteenth Century and early twentieth century trying to understand how a large literature of mutual rejection contributed in many ways to the animosity. What began with a liberal dose of communalism in Narmashankar describing the Muslims as Hadveri of the Hindus, Dalpatram's erasure of the Muslims and vision for a Hindu India and Rangalal's concern for the Hindu's 'chained in slavery' led to a monolithic idea of Hinduism which became a primary concern of the later day litterateurs. Bankim's militant Bhakti or Dayanand's Satyartha Prakas attempted the simple transition from quietism to violence bowdlerizing into the communal Hindutva. I would try to analyze the complex emotional response of the poets who when confronted with the rupture in their tradition and its discontents chose to express their loyalty to the British and came to believe in the British rule as beneficial. In doing so they played into the multipronged British stratagem of divisiveness yet it acted as a bitter incentive in justifying the hostility towards Muslims. Taking Eagleton's concept of mediation I would try to show how the communal character of Nineteenth Century literature was able to influence the literary determinants due to the growing commoditization of literary texts. Does the leitmotif of the Muslim tyrant and the English liberator justify the literature of the epoch as a social phenomenon or should it be seen through the prism of the inner contradictions in the Indian society? I shall try to show how the questions of aesthetics, that of anglo-conformity employed by the English educated milieu, and class, being a primary determinant of social consciousness, problematizes the communal moorings of Nineteenth century writers. I shall also try to show how literary strategies maneuvered the shift from a devotional strand to the rhetoric and aspirations of violent Hindu communalism.

Tuesday 27 November, 9.00-11.00, Seminar Room 3
Religious and Communal Violence 2
Chair: Sufiya Pathan

Sumbul Farah
Department of Sociology, University of Delhi (New Delhi, India)

From Congregation to Crowd, From Procession to Mob

The sanctity of religious beliefs coupled with the threat posed by the existence of an opposed religious 'other' lends everyday life a contingent quality in multi-faith societies. While everyday life is pregnant with the possibilities of peaceful coexistence or individual interactions degenerating into violence, extraordinary situations exacerbate the possibility of situations taking a violent turn. Congregations and processions offer one such instance where the danger of violence erupting is considered endemic to the very nature of the social formations.

This paper seeks to understand the how a congregation morphs into a crowd and a procession gets converted into a mob. To illustrate the same, I draw on the congregation in Bareilly at the time of the urs (death anniversary) of Ahmad Raza Khan, an Islamic scholar of the 19th century who is the central figure in the Barelwi movement. For the purpose of exploring the movement of a procession into a mob, I would focus on the Juloos-e-Mohammadi taken out by Barelwis on the occasion of Prophet Mohammad's birth anniversary (Eid ul Milad un Nabi).

Both the congregation and the procession bring people together for a specific purpose but while the former is marked by its predictability, a juloos (procession) is characterized much more by its unpredictability. An analysis of the agents that lend order to the congregation and the procession enable us to understand how a mass of people is held together for the purpose of a religious end. It is significant that the same agents, ironically, also fuel their anarchy. The riots that broke out in Bareilly during the procession of Eid ul Milad in 2010 illustrate the role of multiple agents in holding the crowd together as well as catalyzing the degeneration of order once it is disrupted.

Tuesday 27 November, 9.00-11.00, Seminar Room 3

Religious and Communal Violence 2

Chair: Sufiya Pathan

Manaf K.K.

CSSS, Jawaharlal Nehru University, New Delhi, India

Making 'un-reformed': Gender, Dress and the Memories of Conversion in Charity Images in Vernacular Newspaper in Kerala

This article will look at the photographs that appear in the advertisements and newspaper reports intended for seeking charity. The photographs under study are black and white family photographs of the rural poor Muslims and they appear in the Malayalam newspaper; Chandrika which is the mouthpiece of Muslim League, a Muslim identity based political party in Kerala. This paper will analyse these photographs by looking at the ways in which they invoke meanings, cultural values, and the memories of the past, especially for those whom they are addressed-the rich male Muslim readers located either in the Gulf or in Kerala. Since one of the cultural artefacts that appear in the photographs is dress, this paper will use the social history of women's dress among Muslims of Kerala for the study of the images. Furthermore, the politics of charity photographs will be studied in the context of the history of charity in the region, Malabar with reference to the Muslim experience of it. Then we will discuss the various ways in which the material culture of dress and the ways of covering body one the one hand, and the social life of charity on the other links to the events of religious conversion and construction of community boundaries in the history of Kerala. In Islam, the institution of alms giving is linked to the notion of religious purification. In the social and cultural context of Kerala the act of giving charity also appeals to the fulfilment of other conceptions of 'purification' such as the carrying out the burden of 'reforming' rural Muslim families who are ignorant of Islam, and reforming them to fit them into the realm of modernity. The photographs also invoke the memories of the events of conversion and thus giving of alms attribute the satisfaction for having patronised a symbolic instance of conversion for the giver.

Tuesday 27 November, 9.00-11.00, Seminar Room 4

Secularism in Europe and India 2

Chair: J.S. Sadananda

Dušan Luzny & Daniel Topinka

Department of Sociology and Andragogics, Palacky University (Olomouc, Czech Republic)

Secularism in the Most Secular and Most Religious Societies: the Case of the Czech Republic and India

This paper focuses on the problem of forms and borders of secular modern state. It takes as an illustrative example the religious situation in the Czech Republic, which is considered the most secular society in which the boundary of declared religiosity is below one-third of all population. The last census confirmed this trend, as the largest and most important religious group in the country (Catholic Church) came down by 60% members in past ten years. Almost half of respondents did not respond the question of the religious beliefs and those who responded, two thirds declared that are without religious faith. In contrast, India is considered the most religious society in which the existence without religious belief and belonging is absolute exception.

However, both states share the secular nature of the state. But, while secularism in India is an explicit value and principle that is often emphasized (especially in the protection of a secular constitution against the efforts of religious nationalists), it is a silent assumption in the Czech Republic. The paper is based on the comparison of similarities and differences of the Constitutions of both states. It takes into account and compare the historical circumstances of the Constitutions (the ideological source of the first Czechoslovak President T.G. Masaryk and B.R. Ambedkar). We will also focus on attacks on the Constitution (on its aims and forms).

As the base of analysis will be used comparison of different types of "nationalism" (Indian and Czech) and comparison of republicanism, liberalism and conservatism. The main question is whether the religious (or nonreligious) character of the population affects the constitutional and legal system of the state, and how this is manifested in the relation into minorities (religious and ethnic). These questions are related to the reflection of globalization (in the sphere of state and law).

Debika Saha
Department of Philosophy, University of North Bengal (Siliguri, India)

Revisiting Secularism: A Study

The secularization of Europe is a social fact. But in recent years due to the changing demographies and social landscapes of the Continent, the secularization of Europe has faced a new turn. As more and more immigrants continue to settle in Europe, religious upsurge are becoming a regular phenomena for the Europeans. Religion and race are the two important factors that are responsible for the changing scenario. A large number of Europeans even in the so-called secular countries still identify themselves as Christians. The "secular" and "Christian" cultural identities are intermingled in a complex manner among most Europeans. Recently the President of the European Parliament, Jerzy Buzek, former Prime Minister of Poland and a protestant made a comment which is relevant in this context. He said that Christianity is one of the greatest strengths Europe has and if it is lost, we will be condemned to the erosion of European spirit. On the other hand, Indian secularism has certain peculiar characteristics which made it distinct from the rest of the world. India is a home of different religions. We find here a mosaic of different religions, Hinduism, Islam, Buddhism, Jainism, Christianity and others. This richness of the variety of different religions shapes the social world and the nature of Indian culture. There are mainly two approaches to secularism: (a) neutrality between different religions and (b) prohibition of religious association in state activities. Indian secularism has opted for neutrality in particular, rather than prohibition in general. In fact, in India, religion is not something which is to be treated separately. Here secular and sacred are intertwined with each other. The present paper will try to unveil the recent trends that are associated with the secularism in Europe and India.

Tuesday 27 November, 9.00-11.00, Seminar Room 4
Secularism in Europe and India 2
Chair: J.S. Sadananda

Sharmila Rao

The Document of Religious Secularism in Indian Theatre

On the one hand, it is commonly felt that secularism is the solution to religious violence in India, especially with regard to conflicts between Hindus and Muslims. On the other hand, secularism is fiercely contested by a variety of groups. Moreover, historically, notions of secularism and tolerance originated as solutions to problems related to the religious strife in the West. Therefore, it is important for religious studies to develop an understanding of those problems that secularism and tolerance can solve, and whether or not these are also the problems Indian society faces with regard to religious pluralism.

- What are the concerns in the Indian criticisms of secularism?
- Are they merely part of the political agenda of the Hindu right?
- Why do many Hindu groups share feelings of unease with respect to secularism?

These are the issues raised in the conference. In my paper I have the documentation of 3 plays, two Sanskrit and one of the colonial raj, where from a platform of acceptance there has been the trickling in of condensing outlook. Dr.Anil Sapkal has ventured into the politics of theatre the staple audio-visual mode of communication. The paper travels through:

- Theatre, its relation to religion.
- Concepts of myth and religion in Hindu theatre.
- Secularism in Sanskrit theatre.
- The theatre of the Raj-era.
- Further areas to explore

Tuesday 27 November, 9.00-11.00, Seminar Room 5

Special S.D.M. panel: Religion, Law and Conversion

Chair: Dr. Devaraj

P.L. Dharma

Professor and HOD Political Science Department, Mangalagangothri, Mangalore University (Mangalore, India)

The Approach of Indian Society towards Issues Relating to Conversion

Surendra Rao

Professor Mangalagangothri, Mangalore University (Mangalore, India)

The Constitutional Aspects relating to the Right of Conversion

P. Ishwara Bhat

Honourable Vice Chancellor, NUJS (Kolkata, India)

Impact of Colonial Laws on Hinduism

T.R. Subramanya

Dean and Professor, Bangalore University (Bangalore, India)

Imperial Approach to the Principles of Objectivity in Religious Law Making

Tuesday 27 November, 9.00-11.00, Seminar Room 6

Special S.D.M. panel: Religion and Law

Chair: Tharanath Shetty

Mohan Ram

Special Officer, Kuvempu University (Shimoga, India)

Law and Religious Reforms in India

C.S. Patil

Principal University Law College (Dharwad, India)

Religious Based Personal Laws, aA Need for Introspection

P.D. Sebastian

Professor at S.D.M. Law College (Mangalore, India)

Multicularalism and Religious Laws

CLOSING ADDRESS & VALEDICTORY CEREMONY

Valedictory Address
Prof. S.A. Bari, Vice Chancellor, Kuvempu University, Shimoga

Guest of Honour
Shri Ajay Kumar, Chairman Corporation Bank, Mangalore

Chief Guest
Shri P. Jayaram Bhat, M.D. Karnataka Bank Ltd. Mangalore

Concluding Remarks
Marianne Keppens, Research Centre Vergelijkende Cultuurwetenschap, Ghent University, Belgium

President
Prof. Balgangadhara Rao, Director, India Platform, UGent, Belgium

Room: Conference Hall
Tuesday 27 November, 16.45-17.30

CONFERENCE OUTPUT AND DOCUMENTARY

Conference output

It is our aim to publish the proceedings of the Platform and Roundtable sessions in the form of an edited volume.

The papers of Platform and Roundtable sessions of the first conference were published by Routledge in 2010: *Rethinking Religion in India: The Colonial Construction of Hinduism*.

Conference documentary and audio recordings

A 10-15 minute documentary is produced of each conference in the conference cluster. The respective documentaries give an overview of the different sessions and include interviews with the invited speakers and other conference participants. In the course of the five years, the documentaries should represent the contribution of Rethinking Religion in India to answering some of the main questions in religious studies and in developing an alternative framework for the study of religion in India.

The overall objective of these documentaries is to make the conference themes and results accessible to a wider audience, to promote reflection and discussion about the conference themes and questions in between conferences, and to introduce the conference themes in institutions of higher education in India and abroad.

Besides these 15-minute documentaries some of the discussions, presentations and interviews with speakers and participants will be uploaded on YouTube. The sessions of the previous two conferences have been watched by a large number of people and we hope the same will be the case for the videos of this conference too.

www.youtube.com/user/cultuurwetenschap

PARTICIPANT LIST

Ahmed Sohaib, sohaibnirvan@gmail.com
Alexander Naessens, alexander@india-platform.org
Amar Kumar Pandey
Amit Srivastava, amit9775@yahoo.com
Amulya Srinivas, amulyatth@gmail.com
Anant Chinchure, anantdc@yahoo.co.in
Ananthakrishna Bhat
Anil Rao, mr.aniljrao@gmail.com
Anirudh R. Garga, anirudhgarga@gmail.com
Anne Cardinael, anne@india-platform.org
Anubhav Pradhan, anubhav.pro18@gmail.com
Anupam Premanand,
anupam.premanand@gmail.com
Archna Sawhney, archnasahni@gmail.com
Arnab Banerji, arnab.UGA@gmail.com
Ashutosh Joshi, ashutosh.joshi07@gmail.com
Ashwini Desai, ashwini.b.desai@gmail.com
B.S. Reddy
B.S. Somashekhar, bssomashekhar@hotmail.com
Bhagya Lakshmi, bhagya.lj@gmail.com
Bhavani Patil, bhavanipatil3992@gmail.com
C.S. Patil
Cezary Galewicz, cezary.galewicz@uj.edu.pl
Chaitra Mathighatta, chaitra78@gmail.com
Chaitra Narayangowda, chaitrabrg@gmail.com
Chaitra Yogini, chaitrabrg@gmail.com
Daniel Topinka, d.topinka@volny.cz
David Bradna, david.bradna@upce.cz
Debika Saha, sahadebika@yahoo.com
Devaiah Noorera, devaiah.ng@christuniversity.in
Devaraj
Devesh Saxena,
devesh.saxena@law.christuniversity.in
Devidas G. Maley, drdgmaley@gmail.com
Divya Jhingran, divyajhingran@gmail.com
Dnyanada Deshpande, Dnyanada.d@gmail.com
Dunkin Jalki, dunkinjalki@gmail.com
Dusan Deák, gzeleznica@gmail.com
Dušan Luzný, dusan.luzny@upol.cz
Ebrahim Yaseen, abrahimyaseen@yahoo.co.in
Emanuel Maes, emanuel.maes@helena.be
Farah Godrej, farah.godrej@ucr.edu
Fernando Simões, fernandodsimoes@umac.mo
Filip Van Cleven
G.N. Bhat
G.R. Jagadish
Geetanjali A. Srikantan, gasrikantan@gmail.com
Girish. K.C.
Indudhara.S.E. Achar, Indudhara.s.e@gmail.com
Ipshita Nath, ipshita_nath@yahoo.com
Iranagouda Biradar, ibbiradarkslu@gmail.com
Ishwara P. Bhat, ishbhath@gmail.com
J.S. Patil, pjslugum@gmail.com
J.S. Sadananda, janekere@gmail.com
Jakob De Roover, jakobderoover@gmail.com
Jaya Sagade, jsagade@yahoo.com
Jhuma Sen, sen.jhuma@gmail.com
Jyothi Vishwanath, drjyothiv012@gmail.com
Jyothi Vishwanath, jyothispalkonda@gmail.com
K.R. Aithal
Kalindi Kokal, kalindikokal@gmail.com
Kathleen Mc Phillips,
Kathleen.McPhillips@newcastle.edu.au
Kavitha P.N., cslckavithaa@gmail.com
Lakshmi Arya, larya@jgu.edu.in
Mahesh Kumar C.S., csmaheshkumar@gmail.com
Mahesh Kumar M.H., mayav5sha@gmail.com
Malcolm Voyce, malcolm.voyce@gmail.com
Mallikarjun A., mallik_59@yahoo.co.in
Manaf K.K., manafthechy@gmail.com
Manisha Sethi, manisha.sethy@gmail.com
Manjunath Bhandary, manju123@gmail.com
Manojkumar Hiremath,
manojvhiremath@gmail.com
Marianne Keppens, marianne.keppens@ugent.be
Martin Fárek, Martin.Farek@upce.cz
Mohan Ram
Monika Cerna, Monika.Cerna upce.cz
Monika Wohlrab-Sahr, wohlrab@uni-leipzig.de
Moodithaya
Mridhula Dharshini Pillay, mdpillay3@gmail.com
Mudasir Nazar, mnazar00@gmail.com
N.P. Kumar, kumar@globaledgesoft.com
Namrata Ganneri, namgan@gmail.com
Namrata Patil, namrata_patil31191@yahoo.in
Naomi Goldenberg, naomi4339@rogers.com
Nishikant Kolge, kolge270477@gmail.com
Nishpriha Thakur, nishprihathakur@gmail.com
Nitish Nawsagaray, nawsagaray@gmail.com
Nora Melniková, nora.melnikova upce.cz
Olga Atoian, aon24@rambler.ru
P.D. Sebastian
P.L. Dharma
Peter Zwertvagher, Peter.Zwertvagher@UGent.be
Prabhakar Joshi
Prajna L.S., lsprajna@gmail.com
Prakash Shah, prakash.shah@qmul.ac.uk
Pranusha Kulkarni, kulkarni.pranusha@gmail.com
Prasanna Kumari, prasannakumarik14@yahoo.com
Prashanth T.M., prashanthtm@nls.ac.in
Praveen T .L., praveencslc@gmail.com
Rahamathullaha
Rajaram Hegde, rajaramainakai@gmail.com
Rajashree Patil, advocateraji@yahoo.co.in
Ramananda Ainakai, rrha22@gmail.com
Ramanath Pandey, rnpmsuoi@gmail.com
Rasheda Parveen, butan_rozy@yahoo.co.in
Rashmi Sehgal, meowpink@gmail.com
Rekha P. Nadageri, rekhanadageri@gmail.com
Robert A. Yelle, robertyelle@hotmail.com
Rohit Dutta Roy, rohitduttaroy@gmail.com
S.N. Balagangadhara, Balu@ugent.be
Sai Bhatawadekar, sai.bhatawadekar@gmail.com
Sandeep Kumar Shetty,
sankushetty@india-platform.org
Santhosh Kumar P. K., santhuappu@gmail.com
Santosha E., santoshaecslc@gmail.com
Sarah Claerhout, sarah.claerhout@ugent.be
Sarbeswar Sahoo, sarbeswarjnu@yahoo.co.in
Sarika Rao, sarika09@gmail.com
Sarka Jezkova, sarka.jezkova upce.cz
Saurabh Sondur, saurabh12393@gmail.com
Shabaz Qazi, shabazagq@yahoo.in
Shankar Bhat
Shankara Prasad, shankara.prasad@inkroma.com
Shankarappa N.S., shankar.swarappa@gmail.com
Shanmukha Armugaum,
shanmukha24@gmail.com
Sharmila Rao, sharmilaraopn@gmail.com
Shilpa K.H., skpshilpa@gmail.com
Shiva kumara P.V., shivucslc@gmail.com
Shreedhar Barki , sbarki26@gmail.com
Shreshtha Banerjee, banerjee.sreshtha@gmail.com
Shristi Jaiswal, shristijaiswal2328@gmail.com
Siddalingamma B.G.,
siddalingammabg@gmail.com
Siddharth Dubey, Siddhu22feb@gmail.com
Siegfried Van Duffel, svduffel@gmail.com
Simon Cubelic, s.cubelic@stud.uni-heidelberg.de
Sonia Puthran,
imcool.soniaputhran@rediffmail.com
Steven D. Smith, smiths@sandiego.edu
Subramanya B.K., aasha.research@gmail.com
Subrat Rath, subratdu@gmail.com
Sufiya Pathan, sufiya@gmail.com
Sumant Gidronia,
sumantgidronia1812@gmail.com
Sumbul Farah, sumbulfarah@gmail.com
Surendra Rao
Surinder Kler Shukla,
shuklasurinderk@hotmail.com
T.R. Subramanya, TR.Subramanya@gmail.com
Tess Joss, tessjoss@gmail.com
Tomas Avramov, tomasavramov@yahoo.com
Usha Ainakai, usha.ainkai@rediffmail.com
Vaishali Dhanawat, angel.vaishali@yahoo.co.in
Veena Sorab, veenacslc@gmail.com
Venkat Rao, telvenkat@gmail.com
Vivek Dhareshwar, vivdhar@gmail.com
Waheeda Amien, waheeda.amien@uct.ac.za
Walter Menezes, waltys@iitb.ac.in
Werner F. Menski, wm4@soas.ac.uk
Zuzana Tutalkova, zuzana.tutalkova@upce.cz

THE FIVE-YEAR CONFERENCE CLUSTER

Rethinking Religion in India is a five-year conference cluster. The five conferences form an integrated whole, with each conference building on the previous one. Each year the issues and problems to be addressed will get delineated more sharply. It is the objective of this conference cluster to come up with a series of answers and new approaches to this set of questions.

	PLATFORM SESSIONS	ROUNDTABLE SESSIONS	PARALLEL PAPER SESSIONS
YEAR 1	Are there native religions in India?	Colonialism and religion in India	(1) Evolutionary explanations of religion (2) Indians are Aryans, so what? (3) The caste system and Indian religion (4) Colonialism and Indian religion
YEAR 2	Is secularism the solution to communal conflict in India	Rethinking secularism	(1) Indian Religion and the Issue of Conversion (2) The Caste System and Indian Religion (3) Colonialism and religion in India (4) Religion and law in India
YEAR 3	Monologue or Dialogue?	The Indian Response	1) Colonialism and religion in India (2) The Caste System and Indian Religion (3) Secularism in Europe and India (4) Said and Orientalism: dead or alive? (5) European Representations of India (6) What does the modernization of Indian traditions mean? (7) Islamic mysticism in European and Indian perspective
YEAR 4	Religion and law in India	Religious and Communal Violence	(1) The colonial construction of Hinduism (2) The caste system and Indian religion (3) Secularism in Europe and India (4) Religious conversion in India (5) Religious and communal violence (6) Religion and Law
YEAR 5	Hinduism and the caste system	Did Buddhism challenge Hinduism?	(1) The Christian theological framework of the religious studies (2) The construction of Hinduism and colonial consciousness (3) Western representations of India and its religions