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# *Jainism in Danger? Temple entry and the rhetoric of religion and reform in post-colonial India\**

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## Abstract

A bitter debate broke out in the Digambar Jain community in the middle of the twentieth century following the passage of the Bombay Harijan Temple Entry Act in 1947, which continued until well after the promulgation of the Untouchability (Offences) Act 1955. These laws included Jains in the definition of ‘Hindu’, and thus threw open the doors of Jain temples to formerly Untouchable castes. In the eyes of its Jain opponents, this was a frontal and terrible assault on the integrity and sanctity of the Jain *dharma*. Those who called themselves reformists, on the other hand, insisted on the closeness between Jainism and Hinduism. Temple entry laws and the public debates over caste became occasions for the Jains not only to examine their distance—or closeness—to Hinduism, but also the relationship between their community and the state, which came to be imagined as predominantly Hindu. This article, by focusing on the Jains and this forgotten episode, hopes to illuminate the civilizational categories underlying state practices and the fraught relationship between nationalism and minorities.

## Introduction

A bitter dispute broke out in the Digambar Jain<sup>1</sup> community in the middle of the twentieth century. The conflict saw the mobilization of a whole range of actions: partial fasting by the pre-eminent Digambar monk, lawsuits, spirited pamphleteering, as well as pitched street fights. ‘Traditionalists’ were pitted against those who preferred to call

\* I am grateful to the two anonymous reviewers of *MAS* for their close engagement with the article, which helped me to refine and sharpen my arguments.

<sup>1</sup> The Jains are divided into two principal sects: Shvetambars (white clad) whose mendicants wear white robes, and Digambaras (sky clad), whose male mendicants, insisting on the prerequisite of nudity to ascetic life, go naked.

themselves ‘progressive’ (*pragatisheel*) or ‘reformist’ (*sudharvadi*). The latter mocked the traditionalists with the label ‘*roodivadi*’ (dogmatic). The singular trigger for this was the passage of the Bombay Harijan Temple Entry Act of 1947 (hereafter, the Bombay Act). This piece of legislation threw open the doors of Jain temples to formerly Untouchable castes in the Bombay province,<sup>2</sup> but it echoed over a much wider region, drawing in writers, lay intellectuals, and activists from northern and central India. In the eyes of its Jain opponents, the new law was a frontal and terrible assault on the integrity and sanctity of the Jain *dharma*—a conspiracy to blend Jainism into Hinduism. Progressives, on the other hand, urged their fellow Jains to welcome the legislation as an affirmation of Jain values, while also insisting on the closeness between Jainism and Hinduism. The conflict turned ostensibly on whether Jains were Hindus and, thus, whether a law promulgated to reform Hindu society could be rightfully applied to the Jains, but it encompassed many related issues, including the power and scope of state regulation in religion, the rights of minority groups, and even how minorities were to be defined.

Whether Jains could be treated as Hindus, even for the limited purposes of applying the law, had surfaced repeatedly for a long time across a wide spectrum of legal and administrative contexts. By the early twentieth century, religion and caste had emerged as the master categories<sup>3</sup> through which colonial rule sought to govern native subjects, with the census<sup>4</sup> and codification of law<sup>5</sup> emerging as the pre-eminent sites of its

<sup>2</sup> I have used the term ‘Harijan’ out of deference to the title of the legislation and when referring to the debates within the Jain community that employed this term alone. Otherwise, ‘formerly Untouchable groups’ has been used. Similarly, Bombay has been preferred over Mumbai to correctly reflect the usage in the period covered here.

<sup>3</sup> Among others, see Bernard C. Cohn, ‘The Census, Social Structure and Objectification in South Asia’, in his *An Anthropologist among Historians and Other Essays* (New Delhi: Oxford University Press, 1987), p. 242; Gyanendra Pandey, *The Construction of Communalism in Colonial North India* (New Delhi: Oxford University Press, 2006; 2nd edn), p. 66. Also, Amrita Shodhan, *A Question of Community: Religious Groups and Colonial Law* (Calcutta: Samya, 2001), see especially Chapter 2.

<sup>4</sup> Cohn, ‘The Census, Social Structure and Objectification in South Asia’, pp. 224–254; Gerald N. Barrier (ed.), *The Census in British India: New Perspectives* (New Delhi: Manohar, 1981); Arjun Appadurai, ‘Number in the Colonial Imagination’, in *Orientalism and the Postcolonial Predicament: Perspectives on South Asia*, (eds) Carol Breckenridge and Peter van der Veer (Philadelphia: University of Pennsylvania Press, 1993), pp. 314–340.

<sup>5</sup> Ludo Rocher, *Studies in Hindu Law and Dharmasastra* (London and New York: Anthem Press, 2012), pp. 635–642. Also Cohn, ‘Anthropological Notes on Disputes and Law in India’, in his *An Anthropologist among the Historians and Other Essays*, pp. 575–631; Flavia

operationalization. Together, these processes assembled people within religious communities, calcifying boundaries that had been fuzzy earlier,<sup>6</sup> and bulldozing over the heterogeneity of practices across regions, castes, and tribes, bringing groups that would not necessarily have called themselves Hindu or Muslim under the purview of Shastric or Islamic law.<sup>7</sup> Refuge from sacred law could be sought in ‘custom’, but it only became legally operative if the petitioner could demonstrate satisfactorily to the court that the practice had indeed been in continued existence for a considerable time.<sup>8</sup> Our interest here is not, however, in the ways in which either textually grounded law or custom was redefined by the British, but in what the very mobilizations of scriptural law or ‘custom’ effected in relation to Jains.

The enumerative, taxonomic, and legal practices of the colonial state touched the Jains in contradictory ways. As early as 1868, the Punjab census listed Jainism as a separate religion.<sup>9</sup> In contrast to their recognition in the census, Hindu law governed Jains in matters of inheritance and succession—unless they could prove to judicial authorities the existence of a varied custom. A rash of cases reached the courts—from Allahabad to Calcutta to Bombay—claiming or contesting, variously, the rights of a sonless Jain widow to adopt a son, without the permission of her deceased husband or his kin, who would be recognized as a rightful heir to her dead husband’s share and, eventually, to exercise the absolute right to enjoy and dispose of her inheritance. The courts were idiosyncratic, sometimes conceding the rights of the Jain widow,<sup>10</sup> and at other times ruling that she had no better rights than a widow ruled under Mitakshara law.<sup>11</sup> Whether

Agnes, *Law and Gender Inequality: The Politics of Women’s Rights in India* (New Delhi: Oxford University Press, 1999); and Shodhan, *A Question of Community*.

<sup>6</sup> Sudipta Kaviraj, ‘The Imaginary Institution of India’, in *Subaltern Studies VII: Writings on South Asian History and Society*, (eds) Partha Chatterjee and Gyanendra Pandey (New Delhi: Oxford University Press, 1992), pp. 22–33.

<sup>7</sup> Agnes, *Law and Gender Inequality*, especially pp. 18–26.

<sup>8</sup> Custom came to be legally defined as a rule that was followed by a particular family, tribe, caste, sect, or group, which from long practice had obtained the force of law. Cohn, ‘Anthropological Notes on Disputes and Law in India’, p. 618.

<sup>9</sup> Kenneth W. Jones, ‘Religious Identity and the Indian Census’, in Barrier (ed.), *The Census in British India*, p. 79.

<sup>10</sup> The Privy Council ruled in the widow’s favour in *Sheo Singh Rai v. Dakho* and *Bhagandas Tejmal v. Rajmal*, cited in *Parshotam v. Venichand*, *All India Reporter* 1921, pp. 148–150.

<sup>11</sup> *Prem Sagar v. Ram Gopal*, *All India Reporter* 1929, pp. 814–815.

ruling in favour or against the rights of Jain widows, these judgments lodged and subsumed Jains under the label 'Hindu'. Reliance on Jain law books, when produced in court to vouch for the high position Jain law afforded widows, was rejected by the courts.<sup>12</sup> Deemed mere caste customs, Jain personal laws could not be shown the same deference, nor granted the same authority, as the *Shastras*. Since case law had itself turned into an important source of law,<sup>13</sup> this litigation had serious and far-reaching consequences insofar as even those judges inclined to hold Jainism to be 'anterior' and separate from Hinduism found their hands tied and had to adjudicate Jain disputes in accordance with Hindu law.<sup>14</sup> In 1938, the Bombay High Court conceded that, while it was wrong to think of Jains as 'originally Hindus',

...Unfortunately, or fortunately for the Jains, however, the law in this country has been so well settled that under it the Courts would start with the presumption that the Hindu law of adoption would apply to Jains, and the burden of showing any custom contrary to the ordinary principles of Hindu law of adoption would be on the party who sets it up. Whether this state of things requires a change or not is a matter more for the Jains than for any one else.<sup>15</sup>

### Jains and the post-colonial state

The post-colonial state inherited the colonial project of enumeration, its legal structure, and jurisprudential categories, and wedded these to 'constitutional values'<sup>16</sup> suitable for the new situation of self-rule. These constitutional values were seen as bequests of the national movement, which had sought not only to unseat colonial rule, but also to weld together a reformed, rationalized, and 'modern' nation. This nationalist modernity demanded the circumscribing of religious practices that clashed with it, most notably Untouchability; it required, too, the

<sup>12</sup> The courts held that the rules of inheritance and succession laid out in these texts were obsolete and 'relate to a condition of Jain society when the widow was considered as a more preferential heir than the son, and cannot have any binding force at the present time'. *Bhikubai Chumilal Ambaidas v. Manilal Bhagchand Raychand*, *All India Reporter* 1930, pp. 517–527.

<sup>13</sup> Cohn, 'Anthropological Notes on Disputes and Law in India', pp. 620–622.

<sup>14</sup> *Gettappa v. Erramma*, (1926) 51 MLJ 757.

<sup>15</sup> *Hirachand Gangji v. Rowji Sojpal*, (1939) 41 BOMLR 760.

<sup>16</sup> D. M. Derrett, *Religion, Law and the State in India* (London: Oxford University Press, 1968), pp. 438–440.

disavowing of a state religion, a stated commitment to the protection of minorities, as well as a guarantee that everyone could practise and profess their religion freely. These two principles of state-led reformism and religious freedom, both invoking constitutional values, often collided with each other. Temple entry laws encapsulated this conflict most starkly. Indeed, it is possible to see the Jain opposition to the Bombay Act in this light—and to a certain extent it was. However, we must remember that the Jain response was fractured, with both sides responding in strikingly polarized ways. This split response went straight to the heart of ‘who is a Jain’—not merely in the religious sense, but in the legal, social, and political senses as well. It connected intimately with another contradiction that beset the new state: the recognition of minorities and affirmation of their rights, on the one hand, and the anxiety, indeed suspicion, about the possible fragmentation of the ‘Indian nation’ that would result from precisely such recognition, on the other.

While the Jains continued to be counted as a separate category in the post-Independence census, they were also drawn into the Hindu fold through a series of moves. Article 25 of the Constitution, which was unveiled in 1950, incorporated Jains (as well as Buddhists and Sikhs) into the broad rubric of Hinduism and construed Hindu religious institutions to include Jain ones.<sup>17</sup> This was deepened further still with the inauguration of the reformed Hindu Code Bill in the mid-1950s, which offered an expansive definition of the subject of this Hindu law, virtually turning legal Hinduism into a magnetic field of such considerable force that Jainism, Buddhism, and Sikhism were swept into its ambit. The Untouchability Offences Act of 1955 (hereafter, UOA) too reiterated such a definition of Hindu. So, far from being an isolated event, the Harijan temple entry law presented itself as a link in a much longer chain where the definitions of Hindus and Jains were being moulded legally. The contending views on Harijan temple entry into Jain places of worship were being thrashed out against this wider backdrop.

<sup>17</sup> Article 25, dealing with ‘Freedom of conscience and free profession, practice and propagation of religion’, also empowered the state to enact laws for ‘providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus’. Its Explanation II defined Hindus thus: ‘In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jains or Buddhist religion, and the reference to the Hindu religious institutions shall be construed accordingly.’

In chronicling this episode from the recent history of Digambar Jains, this article stretches back to the early twentieth century when the opposing camps of ‘reformists’ and ‘traditionalists’ first emerged and consolidated, to the years immediately after Independence, when the Bombay Act drew these two sets of actors into a fierce and public debate. It begins by retracing the emergent Jain identity in the early twentieth century through the rise of Digambar associations and the key figures therein. It will show how the concerns and themes that emerged in this period presaged the temple entry controversy. This is followed by a short history of legislative reforms that culminated in the new law that was at the centre of the controversy. Subsequent sections lay out the contending positions of the two opposing camps, punctuated by a discussion of the judicial decisions on the application of the new law in Jain temples.

The article demonstrates that in both these periods—the colonial and the years around and immediately following Independence—concerns about Jainism’s distinctive identity dominated. The reformist project, which focused initially on the object of securing an independent status for Jainism, tended in the post-colonial period to nest this religious distinctiveness within a broader socio-political category of Hinduism. I argue that, notwithstanding its profession of secularism, the newly independent *national* state was seen to be inherently Hindu in nature and content by both reformists and traditionalists. Where the reformists’ response was to seek accommodation within this Hindu state, the latter’s was to invoke the principle of religious freedom and group rights that were said to inhere in the Constitution. This rhetorical move allowed them to claim distance from an overarching Hinduism in order to protect their own caste practices. These public strategies and contestations over the meanings of ‘Jain’ and ‘Hindu’ are intimately connected to statist definitions of these terms and, indeed, temple entry became one of the sites for forging, and resisting, this expansive definition of Hinduism.

### **The rise of the Digambar Jain organizations**

The Digambar’s oldest organization, the Akhil Bharatvarshiya Digambar Jain Mahasabha (hereafter, Mahasabha), was established in 1895 in Mathura, 200 kilometres southeast of Delhi, in present-day Uttar Pradesh, and began to publish its mouthpiece, the *Jain Gazette*, almost immediately. The Mumbai Prantik Digambar Jain Sabha (Bombay Regional Digambar Jain Association, hereafter Prantik Sabha) was set

up at around the same time by Gopal Das Baraiya, a Hindi-speaking migrant from the north, like a majority of Digambaras in the city.<sup>18</sup>

The Mahasabha, with its 'All India' prefix, initially attracted Digambaras from all ideological orientations: from the traditionalists who wanted to conserve the social and religious world which seemed increasingly to be dissolving under the weight of new social and political forces, to the Western-educated professionals and scholars of traditional learning (pandits) who forged an alliance to 'reform' their faith. By 1923 the contradictions inherent in these two opposing positions could no longer be sustained, and the Mahasabha split, giving birth to its rival, the Digambar Parishad (hereafter, Parishad) led by modernists and progressive pandits. It was referred to as the 'Babu party' as its members were educated professionals, unlike the leadership of the Mahasabha which derived from the traditional mercantile social base.<sup>19</sup> 'Reform' was Parishad's leitmotif and chief slogan, while the Mahasabha took upon itself the mantle of preserving 'tradition'.

Two stellar intellectual figures of Bombay Digambar society at the turn of the century were Gopal Das Baraiya, the founder of Prantik Sabha and editor of its mouthpiece, the Hindi magazine *Jain Mitra*,<sup>20</sup> and his lieutenant, the writer-poet-publisher Nathuram Premi, an expatriate from Sagar in present-day Madhya Pradesh, who founded the short-lived journal *Jain Hiteshi*. *Mitra* and *Hiteshi*, along with *Anekant*, which was edited by lawyer-turned-writer Jugal Kishore Mukhtar, became the print troika and led many social campaigns for reform.<sup>21</sup> Baraiya established schools in Mathura and Morena to revive the tradition of scriptural learning and to train a new generation of lay intellectuals in Jain philosophy and logic as well as the classical languages of Prakrit and Sanskrit. One of the first students he invited to study at his Mathura school was Ganesh Prasad Varni who, although born a Vaishnav, had converted to Jainism at an early age.<sup>22</sup> Varni

<sup>18</sup> Nathuram Premi, 'Parichay', in *Jain jagran ke agradoot*, (ed.) Ayodhyaprasad Goyal (Benaras: Bharatiya Vidyapeeth Kashi, 1952), p. 150.

<sup>19</sup> Conversation with Mr Chakresh Jain, Mahasabha, Delhi.

<sup>20</sup> *Jain Mitra* began publication in 1900. Premi, 'Parichay', pp. 152–153.

<sup>21</sup> Mukhtar started as the editor of *Jain Gazette* (1914–18), edited *Jain Hiteshi* after Nathuram Premi's demise, and launched *Anekant* in 1929. It was published from Saharsawa in Saharanpur, western Uttar Pradesh, Mukhtar's home, before being moved to Delhi in the mid-1950s.

<sup>22</sup> Ganesh Prasad Varni, *Meri Jeevan Gatha* (Varanasi: Shri Ganesh Varni Digambar Jain Sansthan, 2006; 3rd edn, originally published 1949), Vol. 1, pp. 1–3. For an account of their close relationship, see pp. 60–63.

established the Syadvad vidyalaya in Benaras besides raising funds for numerous other schools and educational institutions throughout central India. These educational initiatives were profoundly related to the project of revitalizing the Jain community.

### Fault lines emerge

Tension and conflict between the two sides began to emerge very early on. The first significant issue that brought the reformists into conflict with the orthodoxy was the printing movement. The movement itself could be traced back to anxieties about the decline and degeneration of Jains and loss of identity, which formed a staple theme of many essays published by reformist authors. The decline was understood as both moral and in the more immediate sense of diminishing numbers. To these writers it appeared that the adherents of their faith had lost touch with the truth of Jina's teachings because of the lack of scholars who could read and exposit on ancient texts competently. But how were the adherents to learn of the true teachings if its manuscripts were kept secreted away in *bhandaras* (depositories),<sup>23</sup> and how was the world to know of the glories of Jainism—and, indeed, its distinctive existence—if its scriptures and law books were barred from being printed and presented to the public?

The orthodox taboo on printing derived from the belief that it involved *himsa* (violence) and it was observed so stringently that printed texts were proscribed from temples. When Pannalal Bakliwal, Varni's close aide, founded the All India Jain Doctrine Publication Association in 1912, fear of social opprobrium kept potential donors away from supporting his printing activities.<sup>24</sup> The Mahasabha decried this initiative and announced its support for the Sastra Mudrana Virodhi andolan (Anti-Scripture Printing Movement).<sup>25</sup>

<sup>23</sup> John E. Cort prefers the term 'knowledge warehouses'. See J. E. Cort, 'The Jain Knowledge Warehouses: Traditional Libraries in India', *Journal of the American Oriental Society*, vol. 115, no. 1, 1995, pp. 77–87.

<sup>24</sup> For a report on the pro-printing movement, see Pandit Pannalal Bakliwal, 'Bharatiya Jain Siddhanta Prakashini Sanstha Kashi ki Dvivarshik Report', *Jain Hiteshi*, vol. 3, no. 3, 1914, pp. 1–16.

<sup>25</sup> Vilas Sangave, 'Reform Movements among Jains in Modern India', in *The Assembly of Listeners: Jains in Society*, (eds) Michael Carrithers and Caroline Humphrey (Cambridge: Cambridge University Press, 1991), p. 235.



The pro-printing lobby feared that the Shvetambaras, by opening their manuscript libraries<sup>26</sup> to Orientalists and colonial officials, had gained the upper hand in shaping the Indological discourse on Jainism. Bakliwal therefore began to send printed copies of Jain sacred books to scholars in Germany, London, and Calcutta, free of charge.<sup>27</sup> Alongside the possible 'Shvetambar bias' of Orientalist scholarship, what weighed most on the reformists' minds was the application of Hindu law to Jains by colonial courts. It was apposite therefore that the translation of portions of sacred books and ancient legal texts into English was led by three Digambar lawyers: Padmaraja Pandit, Jugmandar Lal Jaini, and Champat Rai Jain. (Indeed, the conservative resentment against C. R. Jain's publication ventures had been one of the factors in the split of the Mahasabha and the founding of the Parishad.) Accessibility of Jain scriptures was seen as key to establishing the ancient origins and eternal independence of the Jain religion in the government's eyes. These Digambar lawyers were operating in a world where a model of legislative lobbying had already been established, first by the Parsis and thereafter by Muslim and Hindu lawyers and elites.<sup>28</sup> By 1938, C. R. Jain's digests were being produced in the courts.<sup>29</sup>

The second site where traditionalists and reformists clashed was caste itself. In many ways this prefigured the debates around temple entry that were to come some years later. Jain public debates around caste reform echoed closely the Hindu reformist discourse, where the need for vertical unity across castes gained political currency by the second decade of the twentieth century and, like it, were driven largely by the introduction and publication of the census. Lamentations over the 'incorrect enumeration' of Jains in the census led to campaigns by Jain associations urging Jains to register themselves strictly as such.<sup>30</sup> Both

<sup>26</sup> Digambaras reject the Shvetambar corpus of sacred books, claiming that the original canon was irretrievably lost and exists today only partially and in fragmented form in extant Digambar texts. Paul Dundas, *The Jains* (London and New York: Routledge, 2002; 2nd edn), p. 79.

<sup>27</sup> Bakliwal, 'Bharatiya Jain Siddhanta Prakashini Sanstha Kashi ki Dvivarshik Report', p. 3.

<sup>28</sup> Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947* (New York: Cambridge University Press, 2014), p. 123.

<sup>29</sup> *Mt. Jaiwanti v. Mt. Anandi Devi*, AIR 1938 All 62. J. Collister noted that the plaintiffs had submitted a copy of C. R. Jain's *The Jaina Law* but that the court had declined to consider it.

<sup>30</sup> According to Sangave, the campaign bore fruit, as reflected in the 1931 and 1941 censuses, although the picture of overall decline remained. *Jaina Community: A Social Survey* (Bombay: Popular Book Depot, 1959), p. 2. In fact, to this day such campaigns

the Shvetambar and Digambar associations began publishing their own directories alleging that Jain numbers were being under-reported. For the Digambar reformists, however, diminishing numbers were not merely the result of their co-religionists' stubborn preference for 'Jain-Hindus',<sup>31</sup> it was a consequence of entrenched caste taboos and hierarchy, which left the community disunited and in disarray. The pervasive practice of excommunication pushed thousands of Jains outside the fold of their religion. The community 'happily hands over their Jain brethren to others', charged Mukhtar.<sup>32</sup> Similarly, sub-caste endogamy had excessively restricted the size of marriage circles, thus condemning a large number of Jain men of marriageable age to enforced bachelorhood. The pernicious effect of this, rued the reformists, was that Jainism lost these individuals and groups to Vaishnavism.<sup>33</sup> The Parishad began to campaign for inter-caste marriage, but the Mahasabha remained wedded to its rule number nine, which forbade its members from contracting marriage across prescribed caste boundaries.<sup>34</sup>

Among the Digambers, especially those in northern India, caste relations were marked both by separation and hierarchy.<sup>35</sup> The division of castes into Dasas (a sub-unit considered 'half' or inferior) and Bisas (literally, 'twenties', deemed superior), with the former barred from entering the Bisas temples, exemplified the entrenched ranking system.<sup>36</sup> The pages of *Jain Mitra*, *Jain Hiteshi*, and *Anekant* were filled with a

are resurrected before every census. See also P. Flugel, 'Demographic Trends in Jaina Monasticism', in *Studies in Jaina History and Culture: Disputes and Dialogues*, (ed.) Peter Flugel (London and New York: Routledge, 2008; reprint), p. 313.

<sup>31</sup> Dundas, *The Jains*, p. 5.

<sup>32</sup> Mukhtar, 'Jainiyon ka Atyachaar', *Anekant*, vol. 1, nos. 8–9, 1929, pp. 433–439.

<sup>33</sup> Subadhra Devi, 'Adhunik Jain Samaj ki Samajik Parishit', *Anekant*, vol. 1, nos. 8–9, 1929, pp. 463–470. *Jain Hiteshi* proposed a number of reforms, including the relaxation of caste and *gotra* barriers in marriage as well as the prohibition on polygamy and child marriage. 'Jain Jansankhya ke Rhas ka prashana', *Jain Hiteshi*, vol. 11, no. 3, 1914, pp. 139–142.

<sup>34</sup> Conversation with Dr Anupam Jain, professor of mathematics at Government Degree College, Sanwar, Indore.

<sup>35</sup> For an understanding of the way in which caste operates among the Shvetambar Jains of Gujarat, see John E. Cort, 'Jains, Caste and Hierarchy in North Gujarat', *Contributions to Indian Sociology* (n.s.), vol. 38, nos. 1 and 2, 2004, pp. 73–112.

<sup>36</sup> Parmeshthi Das observed that, while this split was pervasive among all castes in Gujarat, there was no ranking of high and low. In contrast, in Uttar Pradesh and central India, 'the Dasa brothers have been needlessly imagined to be inferior, while Bisa have been considered superior'. Pandit Parmeshthi Das Jain, *Dassaon ka Pujadhikar* (Delhi: Lala Jauharimal Saraf, 1935), p. 4.

passionate defence of the rights of Dasas to enter and offer worship in Jain temples established by Bisas. When the Dasas of Khatauli (in western Uttar Pradesh) sought the Allahabad High Court's intercession in 1912 to facilitate their right to offer *pūja* in a Jain temple from which the Bisas excluded them, Baraiya is said to have even testified in favour of the Dasas. The court, however, ruled against the Dasas as they failed to establish their customary right to worship in Bisa temples.<sup>37</sup>

For the conservatives, this provided a much-needed judicial seal on Jain temple practices of hierarchy and exclusion—by rejecting the Dasa claims, the court had aided in the preservation of the religious order that reformists seemed determined to wreck.<sup>38</sup> The reformists, on the other hand, lamented that this adverse judgment had led the Dasas of Khatauli to renounce the Digambar fold and turn Shvetambar.

Thus we see that the Digambar public sphere emerged and developed through these contending streams, and that caste was a fault line long before the Bombay legislation was enacted. In particular, the movement for Dasa rights to worship in all Jain temples, and the traditionalist reaction to it, set the stage for the showdown that ensued with the promulgation of the new law. In both instances, the actors were the same, the arguments near identical—and as we draw nearer to the Harijan temple entry controversy, we can see the consolidation of two centres of authority.

### Competing centres of authority

Until the early decades of the twentieth century, Digambar intellectual leadership was firmly in the hands of lay scholars—whether men of law or traditional learning—rather than monks. The situation began to change, however, with the arrival of Shantisagar (Dakshin) on the scene. Credited with reviving and revitalizing the naked *muni* tradition (after an interregnum of centuries) when he took his vow as a fully fledged *muni* in 1919, Shantisagar had risen to the status of *acharya* (leader of mendicants) by 1924.<sup>39</sup> He is reported to have fasted in Delhi to protest against the colonial government's public decency laws which

<sup>37</sup> *Moti Ram And Ors. v. Manday Lal* on 19 July 1912; 16 Ind Cas 356.

<sup>38</sup> Sphulid Sarvavyapi, *Dassapūjaadhikar Vichar* (Jabalpur: Jamnabai, 1936).

<sup>39</sup> Carrithers notes the year of his initiation as 1919, whereas Flugel records it as 1920. M. Carrithers, 'Naked Ascetics in Southern Digambar Jainism', *Man* (n.s.), vol. 24, no. 2 (June) 1989, p. 232; Flugel, 'Demographic Trends in Jaina Monasticism', p. 348.

made it difficult for Digambar *munis* to practise their vows.<sup>40</sup> It has been argued that in their fierce individualism and self-centred pursuit of the ideal of *moksha* (salvation), Digambar *munis* mimic Mahavira's asceticism. This renders them as repositories of not just charisma but also of charismatic leadership in relation to the laity insofar as they influence the social and religious conduct of their lay followers. Shantisagar, Carrithers says, fundamentally transformed this charismatic leadership by locating it in a field much wider than the traditional and spiritual realm. Through his activism around Digambar *munis*' religious rights from the 1920s onwards and, later, his opposition to what was perceived to be the state's incursion into Jain *dharma* through the Harijan temple entry law, Shantisagar emerged as *the* authoritative voice of the community in its fraught relationship with the state. He was thus both a model of the *muni* and 'of the muni as a charismatic leader'.<sup>41</sup>

Rallying behind Shantisagar in the disputation over Harijan temple entry into Jain temples was the Mahasabha, helmed by old-style merchant groups. Its organ, the *Jain Gazette*, and its numerous contributors and editors—the most prominent being Pandit Indralal Shastri—faithfully broadcast Shantisagar's message.

Ganesh Prasad Varni, who robustly advocated that Jain temple entry for Harijans was scripturally sanctioned, led the other side.<sup>42</sup> Varni was not a full mendicant, although he was a lifelong celibate and took initiation as a *kshullak* (a lower order monk) at the age of 70. He mentored many progressives, including the renowned scholar and litterateur Pandit Banshidhar; indeed, the vanguard of the progressives like Mahendra Kumar Nyayacharya and Pandit Phoolchandra Shastri, acclaimed scholar and editor of *Gnanodaya*, were graduates of the Syadvad vidyalaya that Varni had founded.<sup>43</sup> Sukhlal Sanghavi, although a Sthankavasi Jain from Saurashtra, was remarkably non-sectarian and participated in the Digambar intellectual world through his closeness to scholars like Nathuram Premi and Mukhtar. Sanghavi was a prolific writer, a regular contributor to *Gnanodaya*, among others, and several of the younger writers, like 'Vidyarthi'

<sup>40</sup> Natubhai Shah, *Jainism: The World of Conquerors* (Delhi: Motilal Banarsidass, 1998), Vol. I, pp. 55–56.

<sup>41</sup> Carrithers, 'Naked Ascetics', pp. 230–232.

<sup>42</sup> Varni, 'Harijan Mandir Pravesh', in *Meri Jeevan Gatha* (Varanasi: Sri Ganesh Prasad Varni Jain Granthmala, 1960), Vol. 2, pp. 115–122.

<sup>43</sup> Ayodhyaprasad Goyalia, 'Jain Jagran ki ek Jhalak', *Veer* (*Swarna jayanti visheshank*), 2 January 1973, p. 3.

(literally 'student') Narendra, who crossed swords with the orthodox establishment, were his protégés. They thus congregated around Varni to defend his position that Harijans should be allowed entry into Jain temples. Backing Varni and his collection of progressives was the Parishad, peopled by lawyers and reform-minded wealthy patrons.

The temple entry controversy saw the coalescing of many social and political processes: the rise of a *muni sangha* led by the increasingly influential Shantisagar who emerged as the pre-eminent symbol of traditional authority, the availability of a new language of social reform and its embedding in the project of nationalist modernity, a repertoire of political actions bequeathed by the anti-colonial struggle, and the emergence of supra-local Digambar public sphere(s).<sup>44</sup> In fact, Shantisagar was instrumental in forging this larger Digambar public, which was otherwise divided between scholars and activists of northern and central India who wrote in Hindi, and those in southern Maharashtra and northern Karnataka whose pamphlets and organs were invariably in Marathi and Kannada. Shantisagar, who came from the south but found his principal supporters in the northern Mahasabha, straddled both, and in his person and through his activism, he was able to weld together a community divided across linguistic and geographical lines.

The votaries of the Act, although drawn from northern and central India, were also active in Bombay. The Bombay legislation was swiftly and endlessly debated in the numerous magazines and journals edited by the followers of both Shantisagar and Varni. This ascendant print culture was crucial in expanding this debate beyond Bombay's immediate locale, giving it a much longer life than would otherwise have been possible.

Before we turn to the precise contours of that debate, let us briefly examine the history of temple entry legislation in Bombay and the Central Provinces, the two most significant sites of Jain activism centring on their temples.

<sup>44</sup> Writing about nineteenth-century Shvetambars, Cort has cautioned against erasing the distinctions between the different public spheres that were developing in Punjab, Gujarat, Calcutta, and Benaras. J. E. Cort, 'Jain Identity and Public Sphere in Nineteenth-Century India', in *Religious Interaction in Modern India*, (eds) Martin Fuchs and Vasudha Dalmia (Delhi: Oxford University Press, 2019), pp. 99–137.

### Legislating temple entry

In an influential essay, Partha Chatterjee has argued that nationalism effected a split between the inner/spiritual realm and the outer/material realm, whereby the former became the site of forging and launching a pure national culture protected from the colonial state's regulatory regime. The fading of elite native solicitation for legal reforms in this period, he says, coincided with the colonial state's avowed policy of non-intervention in matters of religion.<sup>45</sup> Such a formulation, however, ignores, first, how 'non-intervention' involved not only an active reinterpretation of tradition, but also the introduction of new legal categories;<sup>46</sup> secondly, it disregards the nationalists' participation in law-making—including lobbying for a legal framework for the governance and management of religious endowments.<sup>47</sup> Lastly, Chatterjee's argument has the unfortunate effect of erasing the history of legal religious reform prior to 1947. This alone can be seen as the moment when hitherto chained legal-reformist urges burst through to find expression in the myriad laws that the newly decolonized state introduced.<sup>48</sup>

This article situates the Bombay Harijan Temple Entry Act 1947 as the heir to a series of provincial laws that aimed to remove restrictions on the entry of hitherto excluded classes into temples—both in the princely states and British India, especially after Congress ministries were formed in the aftermath of the Government of India Act of 1935.<sup>49</sup> The promulgation of these laws was hardly easy as orthodox elements within the legislative assemblies and councils continued to insist that the tribunal of public

<sup>45</sup> Partha Chatterjee, *The Nation and Its Fragments: Colonial and Post-colonial Histories* (New Delhi: Oxford University Press, 1999), especially Chapter 1, pp. 3–13.

<sup>46</sup> See Arjun Appadurai, *Worship and Conflict under Colonial Rule: A South Indian Case* (Cambridge: Cambridge University Press, 1981).

<sup>47</sup> For precisely such a process, see C. J. Fuller, *The Renewal of the Priesthood: Modernity and Traditionalism in a South Indian Temple* (New Delhi: Oxford University Press, 2003), especially 'Modernity, Traditionalism, and the State', pp. 152–167.

<sup>48</sup> P. Chatterjee, 'Secularism and Tolerance', in *Secularism and Its Critics*, (ed.) Rajeev Bhargava (New Delhi: Oxford University Press, 1998), pp. 351–353.

<sup>49</sup> The most significant of these was the proclamation by the maharaja of Travancore in 1936. Robin Jeffrey, 'Travancore: Status, Class and the Growth of Radical Politics, 1860–1940', in *People, Princes and Paramount Power: Society and Politics in the Indian Princely States*, (ed.) Robin Jeffrey (Delhi: Oxford University Press, 1978), pp. 136–169. The Travancore declaration also precipitated similar declarations by the maharajas of Dholpur and Indore. See Vyogi Hari, *History of the Harijan Sevak Sangh, 1932–1968* (Delhi: Harijan Sevak Sangh, 1971), pp. 82 and 156.

opinion would not uphold such legislative reform and, quite often, these laws proved ineffective in the face of entrenched prejudices. *The Indian Annual Register* noted that during a discussion on the child marriage bill in the Central Legislative Assembly, Bajjnath Bajoria, representative of the Marwari association, ‘fell like a deadly avalanche’ on the Congress ministries, accusing them of attempting to ‘capture the Temples’.<sup>50</sup>

The Jains were not absent from these debates and developments, although historians have scarcely paid them any attention. In Mysore, for instance, when the Legislative Council passed a resolution—not a law, mind—in 1938, permitting Harijans to access temples, including the Jain temples in the hills of Sravan Belgola, agitation by the Jains caused it to be swiftly rescinded.<sup>51</sup> When the Malabar Temple Entry Act of 1938 was passed by the Madras Legislative Assembly and placed before the Legislative Council, a Jain member of the opposition, D. Marjayya Heggade, also the trustee of the famous Dharmasthala temple in South Kannara, argued against it on the grounds that neither custom and usage, nor *Shastras* and *Agams*—the two touchstones of colonial law-making—validated the provisions of the bill.<sup>52</sup>

In Bombay, the Bombay Harijan Temple Worship (Removal of Disabilities) Act 1938 was speedily passed by both the Legislative Assembly and Council, in a single session,<sup>53</sup> but while it was said to have received ‘the warmest support of every section’ of the House,<sup>54</sup> outside, orthodox opinion made itself heard.<sup>55</sup> For the Jains, the nub of

<sup>50</sup> Proceedings of the Central Legislative Assembly, January–June 1938, *Indian Annual Register*, Vol. 1 (1938), p. 87. One may add here that Marwaris can be both Jains and Vaishnav Hindus and that there is a remarkable similarity in their social worlds, even if they adhere to different faiths. Bajoria was also very active in opposing the reforms in Hindu law. See E. Newbigin, *The Hindu Family and the Emergence of Modern India: Law, Citizenship and Community* (Cambridge: Cambridge University Press, 2013), p. 146.

<sup>51</sup> S. Chandrashekar, *Dimensions of Socio-Political Change in Mysore, 1918–40* (Delhi: Ashish Publishing House, 1985), pp. 99–100.

<sup>52</sup> S. R. Venkatraman, *Temple Entry Legislation Reviewed: With Acts and Bills* (Madras: Bharat Devi Publications, 1946), pp. 47–48. Heggade’s objections were especially interesting as the Dharmasthala temple is rather unique in that it houses both a Shiva shrine and one dedicated to the Jain hero Bahubali. While Brahman priests perform the daily prayers, the temple is traditionally managed and run by Jains, namely the Heggade family.

<sup>53</sup> It came into effect on 1 April 1938. *Ibid.*, p. 57.

<sup>54</sup> *Ibid.*, p. 56.

<sup>55</sup> Eleanor Zelliot, ‘Congress and the Untouchables, 1917–1950’, in *Congress and Indian Nationalism: The Pre-Independence Phase*, (eds) Richard Sisson and Stanley Wolpert (Berkeley: University of California Press, 1988), p. 191.

the controversy was the Act's definition of the Hindu community in section 2 (4), which read, simply, that the "Hindu community" includes Jains.<sup>56</sup>

The possibility of similar legislation authorizing Harijan temple entry arose in another province. The Congress ministry in the Central Provinces and Berar introduced a bill identical to the Bombay law on the last day of the Legislative Assembly's budget session in April 1939.<sup>57</sup> It too included Jains within the purview of the Hindu community. In August 1939 it was referred to a select committee, but by then the Autumn session of the assembly had drawn to a close and the bill could not be passed.<sup>58</sup> The resignation, however, of Congress ministries in late 1939, protesting against Linlithgow's unilateral declaration of India as a belligerent in the war against Germany,<sup>59</sup> meant that the Bombay Act of 1938 came to naught and the Central Provinces Bill could never be enacted. Thus, for the time being, the alleged plan to 'capture the temples' was postponed and, with it, the orthodox opposition to temple entry dissipated in Bombay and did not gather steam in the Central Provinces.

When the provincial assemblies were revived and elections held in 1946, so were these legislative measures. The Bombay Harijan Temple Entry Act was passed in 1947 in its original form,<sup>60</sup> leading immediately to a furore in the Digambar community. In the Central Provinces, Jain activists were successful in ensuring that the Central Provinces and Berar government kept Jains outside the purview of the definition of 'Hindu' through a government press note published in the daily *Hitvada* on 14 December 1947 which directed that 'the provisions of the CP and Berar Temple Entry Authorisation Act 1947 should not be applied to the Jain temples. Section 2B of the Act defines the word "Temple" clearly enough to show that the Act applies to Hindu temples only and Jain temples are not affected by the Act.'<sup>61</sup> Here the success of the

<sup>56</sup> Venkatraman, *Temple Entry Legislation Reviewed*, Appendix XII, p. L.

<sup>57</sup> *Indian Annual Register*, Vol. I (1939), p. 281.

<sup>58</sup> *Ibid.*, Vol. II (1939), p. 172.

<sup>59</sup> *Ibid.*, p. 246.

<sup>60</sup> Hari, *History of the Harijan Sevak Sangh*, p. 83.

<sup>61</sup> Reproduced in Sumeruchand Diwakar, *Charitra Chakravarti: Shraman shiromani Acharya Santisagar Maharaj ka Punya Charitra* (Delhi: Sri Bharatvarshiya Digambar Jain Mahasabha, n.d.), p. 288. On this, see also Banshidhar, 'Jain Mandir aur Harijan', in *Sanskriti Varadputra Pandit Banshidhar Vyakaranacharya Abhinandan Granth*, (ed.) Darbarilal Kothiyia (Varanasi: Abhinandan Granth Prakashan Samiti, 1979), p. 31.



Act's opponents could perhaps be attributed partly to the rise of Hindi-speaking leadership in the state, which was more amenable to the clout of the Digambar Jains than was the Maharashtrian Congress.<sup>62</sup>

The relief in the Central Provinces proved to be short-lived, however. In 1955, the Untouchability Offences Act was promulgated. It criminalized the imposition of disabilities on 'the ground of untouchability' in all areas of social and religious life: from hotels, homes, and shops, to places of entertainment and public worship. The UOA reiterated the capacious definition of Hindu inhering in Article 25 (2)(b) and the Bombay Act by laying out that 'persons professing the Buddhist, Sikh and Jain religion ... shall be deemed to be Hindus'. Thus another avenue of conflict—between traditionalists and the government, on the one hand, and between the traditionalists and reformists, on the other—opened up.

### **In defence of *dharma*: Shantisagar's resolve**

The opposition and protests that originated with the Bombay Act carried on until well after the UOA was enacted, and it was Shantisagar's steady hand that led the movement through these years. His position, as we have noted earlier, is unparalleled in modern Digambar history. So naturally, when Shantisagar announced that he would protest against the inclusion of Jain temples within the ambit of the Bombay Act by renouncing cereals, it created a sensation in the community.

Opposition to the law—in communiqués to the government and general public—was carefully couched in the language of the independence and distinctiveness of Jainism from Hinduism, and *not* as resistance to the uplift of the lower castes. Internally, however, the question of the validity of caste hierarchies was addressed much more frontally and recalled the traditionalist reaction to Dasa demands for worship rights. Orthodox pandits endeavoured to demonstrate that caste hierarchy was scripturally enjoined in Jainism. Indralal Shastri laid out a fulsome defence of caste distinctions and the urgency of maintaining its boundaries. He contended that Jain *Shastras* show '*jati*' to be

<sup>62</sup> In mid-1938, the state saw a ministerial crisis, which ended in the resignation of the incumbent prime minister, Dr Narayan Bhaskar Khare. It signalled the decline of Maharashtrian Brahman dominance and the rise of the Hindi region and its politicians, drawn from a much larger and more diverse social base, including Brahmans, Rajputs, and Marwaris. See D. E. U. Baker, *Changing Political Leadership in an Indian Province: The Central Provinces and Berar* (Delhi: Oxford University Press, 1979).

unambiguously determined by birth and related to ‘*gunas*’ (or qualities that are innate and pre-given), unaffected by conduct (*achara*).<sup>63</sup> This, of course, was quite close to the Brahmanical conception of caste but was endorsed by no less an authority than Shantisagar. Indralal, in fact, abandoned the standard excuse put forth by the opponents of the Act—that Jain temples should be closed to *all* non-Jains—explicitly singling out and denouncing Harijans as inferior beings. His advice to them was to embrace the Jain path—but cloistered in their own homes, not in Jain temples.<sup>64</sup>

The public narrative followed a different tack. Shantisagar’s biographer and close aide, Sumeruchand Diwakar, invoked the memory of the appropriation of a minority religion by a dominant majority. Tracing an ‘unpleasant history’ of persecution and plunder, Diwakar recalled how hundreds of historical Jain temples in Phaltan, Kolhapur, Mysore, and indeed all over southern India, slipped out of the control of Jains into Hindu hands, and how Jain scriptures were systematically destroyed.<sup>65</sup> The subsuming of Jains in the definition of Hindu in the Bombay law was placed within this long and seemingly unbroken history of conflict and persecution. An attempt by Harijan Sevak Sangh, albeit foiled, to enter a Jain temple at Sangli in August 1948 was seen as a confirmation of this conspiracy.

But Shantisagar would not allow this conspiracy to come to fruition. He immediately undertook a vow to give up all cereals until Jain temples were excluded from the purview of this law. Stressing the centrality of temples in the religious life of the community, and the imperative that had driven him to this course of action, he said:

Jainism exists only till there are Jain mandirs. The idols are our very life breath. How can we watch passively while our *dharmā* fades? The laity did not do its duty so I am forced to give up cereals. I am ready to renounce all kinds of food and undertake *sallekhana*.<sup>66</sup> Though I do not need the idols, as God resides in my heart, I am worried about my brothers. I can even worship the idol by myself, sitting somewhere alone—which reformist dare venture there?<sup>67</sup>

<sup>63</sup> Indralal Shastri, *Jain Dharma aur Jati Bhed* (Sujargarh, Rajasthan: Mishrilal Jain Shastri Nyayathirtha, n.d.).

<sup>64</sup> Cited in Vidyarthi Narendra, *Harijan Mandir Pravesh, ek Adhyayan: Indralal ji Shastri ke Tract ka Yuktipoorna Uttar* (Sagar: Pragatisheel Jain Yuvak Samaj, n.d.), p. 79.

<sup>65</sup> Diwakar, *Charitra Chakravarti*, p. 282.

<sup>66</sup> The ritual fasting to death.

<sup>67</sup> Diwakar, *Charitra Chakravarti*, pp. 284–285. All further references to Shantisagar’s fast and political meetings are from Diwakar, *Charitra Chakravarti*, pp. 282–303, unless mentioned otherwise.

Jain temples, he and his followers repeatedly emphasized, were *not* Hindu temples but the site for '*atma dharma sadhan*' (spiritual self-realization) for Jains alone. They were the material means through which Jains realize their 'Jain-ness'. Hindus—whether Harijans or not—had no place there. He chastised those Jains who preferred to call themselves Hindus for betraying their true identity.

Gandhi had already established fasting as a moral weapon of resistance during the struggle for independence. At the same time it was a mode of everyday religious practice for Jain ascetics. This restricted fasting was thus simultaneously a political, ethical, and religious act offered as a powerful challenge to those who presumably wished to extinguish the Jain *dharma* and expropriate the rights of the community. There were other examples too that may have served as a template for the struggle of Shantisagar and his followers. Earlier in the year, Krishandas, head of the Vallabha sect in Bombay, had rebuffed attempts by former Untouchables to enter the Vithoba temple in Pandharpur by going on a fast unto death. The management of the Swaminarayan temple in Ahmedabad had quietly secured a court injunction against Harijan temple entry by arguing that the Swaminayaranis were not Hindus, but adherents of an altogether different faith. So, when in January 1948, pro-entry marchers reached the Swaminarayan temple, they were confronted with signage that proclaimed that entry to the temple was restricted to Satsangis alone and did not extend to 'all the Hindus'.<sup>68</sup> Though Shantisagar and his acolytes did not invoke these two instances, it is implausible that they were unaware of these highly public strategies of Vallabh and Swaminarayan groups and did not draw upon them.

In pursuance of the *acharya's* vow, his followers also undertook a variety of *niyams* (vows). With Shantisagar's fast began a period of hectic talks with government and political leaders. Diwakar founded the All India Jain Political Rights Preservation Committee, and under its aegis sent appeals to leaders and officials,<sup>69</sup> and held meetings with the president of India and the home minister and chief minister of Bombay state.<sup>70</sup>

<sup>68</sup> Makarand Mehta, 'The Dalit Temple Entry Movements in Maharashtra and Gujarat, 1930–1948', in *The Other Gujarat*, (ed.) Takashi Shinoda (Mumbai: Popular Prakashan, 2002), pp. 1–20.

<sup>69</sup> 'Inclusion of Jains among Hindus', *The Times of India*, 20 August 1949, p. 5. Diwakar's organization appears not to have been mass-based, but in the main a forum for writing letters and sending petitions to the government on issues and concerns considered important to the Jains.

<sup>70</sup> Diwakar, *Charitra Chakravarti*, p. 288.

The Bombay government dismissed Digambar objections to the Act. It refused to concede that the boundaries between Jainism and Hinduism had never been sharply drawn, or that Hindu law had never been applied to the Jains. Legislation aimed at the welfare of Hindus had always drawn Jains within its ambit, it maintained.<sup>71</sup>

As the months passed and the stalemate continued, appeals against the government's pococurantism were carried in the papers (in *Blitz* on 4 June 1949).<sup>72</sup> On the completion of one year of the fast, a call for an all India strike was made to show that the Digambar community rallied behind the *acharya*.<sup>73</sup>

For years, Digambar disaffection on this question was reflected in the street fights that erupted each time formerly Untouchable groups attempted to enter Jain temples. Gandhi's birth and death anniversaries became particularly fraught as attempts were renewed on these days. On Gandhi's sixth death anniversary, for instance, in 1954, the state health minister Dr Sushila Nayyar led an unsuccessful attempt to enter the Lal Mandir in old Delhi. Perhaps it was the clout of the minister that forced a senior leader of the Digambers to promise that amends would be made,<sup>74</sup> but the temple again witnessed a large protest the following year on Gandhi's birth anniversary when it closed its gates. In Gwalior in October 1955, the Digambar community preferred to close down the temple rather than allow Harijans access.<sup>75</sup>

The former princely state of Indore (which was absorbed into Madhya Bharat in 1948 and Madhya Pradesh in 1956) became an important site of Digambar Jain obduracy on the issue. Jains had traditionally exercised an influence far in excess of their small numbers in Indore, and with the coming of electoral politics, their hold was only further consolidated.<sup>76</sup> The strident Digambar public stance against Harijan temple entry led to repeated clashes with the Harijan Sevak Sangh (HSS), which, from time to time, despatched its volunteers to endeavour to enter the 25 or so Digambar temples in the city. The Digambers in turn formed an

<sup>71</sup> 'Inclusion of Jains among Hindus', *The Times of India*, p. 5.

<sup>72</sup> Diwakar, *Charitra Chakravarti*, p. 289.

<sup>73</sup> 'Harijan Entry Act and Jain Temples', *The Times of India*, 8 August 1949, p. 9.

<sup>74</sup> 'Harijans to be Admitted', *The Times of India*, 2 February 1954, p. 1.

<sup>75</sup> 'Jain temples in Gwalior Closed', *The Times of India*, 11 October 1954, p. 5.

<sup>76</sup> See Rodney W. Jones, *Urban Politics in India: Area, Power, and Policy in a Penetrated System* (Berkeley: University of California Press, 1974), pp. 50–57 and p. 87. The first two chief ministers of Madhya Bharat following the victory of the Congress in the first general elections were Jains, namely, Mishrilal Gangwal and Takhtmal Jain.

action committee to lobby the state government to prevent the HSS's moves, and threatened that forcible attempts at entry would be physically foiled.<sup>77</sup>

Just months before the UOA was passed, Digambers held an all-India convention at Indore, where they adopted a resolution to continue to keep their temples out of bounds to Harijans.<sup>78</sup> Entreaties to temple authorities by senior Congress Jain leaders, including the state committee's general secretary Babulal Patodi and the province's finance minister Mishrilal Gangwal, were rebuffed. The impact of the resolution was felt almost immediately in the city. Harijan leaders declared their intention to attempt entry, while 4,000 Digambar women fanned out across the city, squatting outside Digambar temples to prevent any entry by Harijans.<sup>79</sup>

### **Jains, Hindus, and 'Harijans': the judicial resolution**

While Shantisagar continued his partial fasting, and his followers remained intransigent in their opposition, community leaders prepared to challenge the Bombay Act in the Supreme Court.<sup>80</sup> Certain events in late 1950, however, precipitated a different legal route. On 28 November 1950, a bid was made to enter a Digambar Jain temple in a small village called Akluj in Sholapur district (Maharashtra). Though initially unsuccessful, the district Collector forced the temple's managers to open their doors for the agitators in the middle of the night. Local Digambar representatives protested against the Collector's 'abetment' of the invasion of a 'private' Digambar temple meant for the 'exclusive' use of Digambar Jains. The Collector, in turn, took refuge in the Bombay Act, which arguably necessitated him to act in the way he did.<sup>81</sup>

A challenge was immediately filed in the Bombay High Court. The petitioners were five residents of Akluj who agitated against the Collector's action, which they perceived as a grave injustice to the Akluj Digambar Jain community. Their main contention was that by forcing open Digambar temples to Harijans, who were principally non-Jains,

<sup>77</sup> 'Entry into Jain Temples: Indore Harijans' Move', *The Times of India*, 12 July 1954, p. 9.

<sup>78</sup> 'No Entry for Harijans', *The Times of India*, 21 September 1955, p. 9.

<sup>79</sup> 'Jain Women Sit outside Temples', *The Times of India*, 26 September 1955, p. 3.

<sup>80</sup> Diwakar, *Charitra Chakravarti*, p. 290.

<sup>81</sup> 'Harijan Temple Entry Challenged', *The Times of India*, 24 July 1951, p. 7.

the Act was bad in law and *ultra vires* of the Constitution. The petition spoke the language of constitutionality and drew upon Article 25—the freedom of conscience—and the Jains' right to freely practise, profess, and propagate their faith, holding up the Act as its antithesis.<sup>82</sup>

Diwakar's eyewitness account of the trial seems to depart slightly from the judicial transcript. For one thing, while the judgment is authored by then chief justice M. C. Chagla, it is J. Gajendhragadkar who dominates Diwakar's narration. Diwakar tells us that no sooner had the counsel for the Jain petitioners opened his arguments that J. Gajendhragadkar halted him to ask if he believed in the *varnashram dharma*. If he did, the judge continued, he must surely believe in proscribing the entry of former Untouchables from Jain temples. The counsel continued to insist that outsiders were stopped from entering the Jain temple *only* because they were non-Jains, not because they were 'Untouchables'. J. Gajendhragadkar, however, reminded him that in a small place like Akluj, it was unlikely that one's caste would not be known. Under this relentless interrogation, Diwakar recalls that the Jain side seemed to wither and lose hope.<sup>83</sup>

The judgment, brief as it is, belied Diwakar's fears. The court firmly and swiftly dismissed the advocate general's argument that Jain temples had been transformed into Hindu temples through the writ of the new law. It refused, too, to concede to his plea that 'the main object of the Act is to remove all the distinctions between Jains and Hindus'. In the court's eyes, the main—and limited—object of this law was to raise the status of the Harijans to the level of 'High class Hindus' in the matter of temple entry. The court concluded that in this particular case, where neither by law, nor custom, nor usage, had the right of caste Hindus to enter and worship in this temple been established, a similar right could not be granted to Harijans. The Bombay Act, in its view, sought only to bring about an equivalence between Harijans and caste Hindus, whereas the advocate general's contention, if accepted, would result in bestowing a new right on high caste Hindus where none had existed previously.<sup>84</sup> In conclusion, the Bombay High Court held that Jains formed a 'distinct and separate entity as a class by themselves governed by their own religions tenets and belief'.<sup>85</sup>

<sup>82</sup> Ibid.

<sup>83</sup> Diwakar, *Charitra Chakravarti*, p. 297.

<sup>84</sup> *Bhaichand Tarachand And Ors. v. State Of Bombay And Anr*, AIR 1952 Bom 233.

<sup>85</sup> Ibid.

With this, Shantisagar's protracted and partial fasting came to an end.

However, the passage of the UOA in 1955 meant that resistance to Harijan entry to Jain temples continued outside the courts, as we have seen in the previous section, but also that this could now attract criminal prosecution even in states where Jains had managed to secure their preclusion from the ambit of provincial legislations. In October 1955, Puranchand, the *pujari* of a Jain temple in Ujjain (in present-day Madhya Pradesh) was convicted for locking the gates of the temple in order to expressly prevent one Mohanlal, an Untouchable Balai by caste, from entering it. On Mohanlal's complaint, a summary trial was conducted under Section 260 CrPC, resulting in Puranchand's conviction. Puranchand's defence was that Mohanlal was a non-Jain and thus did not enjoy the right of entry to a Jain temple, but the trial court held that the UOA had effectively opened up all Jain temples to all Hindus.

The matter ultimately reached the division bench of the Madhya Pradesh High Court. Both judges in their separate judgments spent a considerable time elaborating on the meaning inherent in the definition of 'Hindu' in UOA's section 3. Discarding the trial court's reading, judges Srivasatva and Newaskar insisted that UOA did not make Jain temples into Hindu ones—and Mohanlal's rights to *darshan* in a Jain temple rested on the prosecution's ability to demonstrate the existence of such a right enjoyed by caste Hindus generally.<sup>86</sup>

The Madhya Pradesh High Court's reading of the definition of 'Hindu' in the UOA echoed the Bombay High Court's interpretation of the same in the Bombay Harijan Entry Act—namely, that the object of the respective provisions was to create parity between caste Hindus and Untouchables, not to create any new rights in their favour. Furthermore, the legislative intent of these laws in subsuming Jains in the definition of Hindu was not, according to these judicial pronouncements, to eliminate the difference between Jains and Hindus. These judgments, in particular the Bombay High Court's pronouncement, were held up by the Mahasabha as a vindication of its stance, and a resounding defeat of the reformists.

<sup>86</sup> *State v. Puranchand*, AIR 1958 MP 352. The trial court did not record any explicit finding regarding caste Hindus accessing this temple.

**'In which river, pray, shall disciples drown their gurus?' The reformist challenge to Shantisagar**

Diwakar, Shantisagar's biographer, claims that the majority of the Digambar Jain community rallied behind the *muni*, with opposition comprising only a 'handful' of so-called 'reformists'.<sup>87</sup> This was limited truth at best; the voice of the opposition could hardly be discounted.

Varni and his followers attacked Indralal Shastri and other pandits for misinterpreting (either deliberately or out of ignorance) the Jain understanding of *jati*. Denying its association with birth, they yoked it instead to merit and occupation. They, too, marshalled textual evidence, but to assert that Jainism allows for the redemption of all without discrimination, and that Shudras were capable of undertaking religious vows. These writers sought to establish that the caste order lacked a divine basis since Raja Rishabdev had created it *before* he attained enlightenment and liberation to become the first tirthankar.<sup>88</sup>

A Jain critique of the caste system crystallized most cogently in Phoolchandra Shastri's magnum opus *Varna, Jati aur dharma*. At the heart of this refutation is the split between *laukik* (worldly) and *parlaukik* (otherworldly, spiritual) aspects of religious duty which are incumbent upon a householder.<sup>89</sup> The *laukik* was the realm of social arrangements and caste duties flowing explicitly from Vedas and Manusmriti, whereas the *parlaukik*, which alone is the *mokshamarga* (path to liberation), derived from the teachings of tirthankars. *Varna* and *jati*, even when sanctioned in the sermons and writings of learned teachers of the Digambar tradition, could never be deemed part of the *parlaukik dharma*.<sup>90</sup>

In order to gain acceptance for Harijan temple entry and to allay anxieties about possible 'pollution', the Sanmargi Pracharini Samiti, set up by Pandit Banshidhar in Bina (Madhya Pradesh), proposed a series of

<sup>87</sup> Diwakar, *Charitra Chakravarti*, p. 292.

<sup>88</sup> Prof Mahendra Kumar Nyaycharya, *Jain Mandir aur Harijan* (Delhi: Bharatvarshiya Digambar Jain Parishad, n.d.), p. 17.

<sup>89</sup> This distinction is found in the writings of the medieval South Indian Digambar *acharya* Somadeva Suri, author of the authoritative *Shravakachara, Upasakadhyanaya. Shravakachara* is the corpus of prescriptive literature for Jain householders.

<sup>90</sup> Phoolchandra Shastri, *Varna, Jati aur Dharma* (Delhi: Bharatiya Jnanpeeth, 1989; 2nd edn). See also his series 'Shudra Mukti', *Gnanodaya*, no. 4, October 1949, pp. 267–270, and *Gnanodaya*, no. 5, November 1949, pp. 367–373.



guidelines around hygiene, purity, and the study of texts that Harijans should undertake before they ventured into Jain temples.<sup>91</sup>

*Gnanodaya*, helmed by Phoolchandra Shastri, was the most significant voice of the pro-reform lobby. It styled itself as an intellectual platform that would be the true voice of the Jain culture and religion, as opposed to what it deemed to be the downright ‘communal’ outlook of other Jain magazines.<sup>92</sup> Copies of the magazine were dispatched to political leaders, assuring them that the ‘intellectuals’ of the *samaj* supported the legislation and congratulated them for not ceding ground to those promoting ‘communalism’.<sup>93</sup>

No polemic was allowed to pass without an appropriate riposte. Vidyarthi Narendra was especially scathing in his attack on Shantisagar. He remarked that although the Jain magazines, which ran on Shantisagar’s whims, had refused to publish any articles endorsing the Act, he succeeded in publishing his articles ‘*Harijan Jain mandir jaa Sakte hain*’ (Harijans can enter Jain temples) [15 September 1949] and ‘*Jain Hindu hi hain*’ (Jains are Hindus) [18 September 1949] in *Samaj* and the daily *Sanmarg* respectively. Both were published from Benaras where Varni had no mean influence. Vidyarthi wrote that the two articles created such a sensation that, in a fit of anger, Shantisagar cursed him in absentia, prophesying darkly and dourly that he would fail his examinations!<sup>94</sup>

The giving up of cereals—touted by Shantisagar’s followers as a great moral and ethical act of resistance—was lampooned by the progressives. Vidyarthi taunted Shantisagar by alleging that the *acharya* suffered from a terrible condition of the throat for which the doctors had prescribed a diet of milk and fruits, and abstention from cereals. Led on by his disciples, Shantisagar used his medical condition to blackmail the community.<sup>95</sup> So, the young student writer charged that while *acharya ji*

<sup>91</sup> Banshidhar, ‘*Jain Mandir aur Harijan*’, pp. 29–32.

<sup>92</sup> ‘Editorial’, *Gnanodaya*, no. 1, July 1949, p. 76. *Gnanodaya* regularly carried news of the pro-Act camp, reporting, for example, that pamphlets were circulated against the *hartal* called on the first anniversary of Acharya’s fast.

<sup>93</sup> An editorial in the magazine *Jain Sandesh* headlined ‘*ghar ki phool*’ (a house divided) latched onto this communication as evidence of the reformist desire to send those opposed to the Act to jail. See rebuttal and original letter in *Gnanodaya*, no. 3, September 1949, pp. 221–222.

<sup>94</sup> Narendra, *Harijan Mandir Pravesh*, p. 34.

<sup>95</sup> *Ibid.*, pp. 33–37.

enjoyed his *rabdi* and fruit juices, his wily supporters gave the cry that ‘acharya ji has renounced food! Jain *dharma* and sadhus in danger!’<sup>96</sup>

Vidyarthi narrated an incident, as relayed to him by one Dhannalal ji ‘Raipur’. Dhannalal’s story went that when he paid a visit to Shantisagar in Baramati (Maharashtra), their discussion had invariably veered to the Act, upon which the *acharya* had commanded him to broadcast his message to all Jains in central India: should Harijans succeed in entering Jain temples, the icons were to be cast into ponds or rivers. Not one to let this pass, Vidyarthi asked caustically about the fate of those mendicants who risked being tainted by the devotion of Harijans: ‘In which river, pray, shall disciples drown their gurus?’

The Parishad continued to stoutly advocate temple entry. Reports in the *Times of India* tell us that this occasioned chaos and even violence at its meetings. In the Parishad’s silver jubilee session in Delhi in 1950, a section of the audience, many of whom were allegedly neither members of the Parishad nor delegates, shouted slogans and created ‘confusion’, forcing the adjournment of the session.<sup>97</sup> According to the chroniclers of Parishad history, while Pandit Parmeshthi Das was speaking in favour of the resolution he had proposed to facilitate Harijan entry into Jain temples, a mob of 100–150 ‘goons’ marched into the tent demanding that this resolution be withdrawn. They dragged Parmeshthi from the stage and pummelled him to unconsciousness. The Parishad organizers had not expected the resistance to turn violent in Delhi. A better-prepared working committee was able to push through the resolution the following day.<sup>98</sup>

That the Parishad—as the reformists’ principal organization—dutifully continued to pass such resolutions several years down the line reflects the centrality of the temple entry question to the reformist agenda.<sup>99</sup> As we have seen earlier, thinking around caste had preoccupied reformist writers such as Mukhtar and Baraiya for a long time. This was fundamentally linked to the project of revitalizing the Jain community and Jainism itself, which they wished to be recognized as a fully fledged religion in its own right, and not merely a heterodox sect of Hinduism. A perceptible shift, however, occurs in this later period, where the

<sup>96</sup> *Ibid.*, p. 18.

<sup>97</sup> ‘Entry of Harijans into Temples’, *The Times of India*, 27 December 1950, p. 7, and ‘Entry of Harijans into Jain Temples’, *The Times of India*, 25 December 1950, p. 9.

<sup>98</sup> Parmeshthi Das, ‘*Bharatiya Digambar Jain parishad ke manch par ghatit ghatnayein jinhe aaj bhi bhool nahi saka!*’, *Veer (Swarna jayanti visheshank)*, pp. 99–100.

<sup>99</sup> ‘Open temples to Harijans’, *The Times of India*, 5 April 1956, p. 5

reformist burden was to prove that Jains could in fact be accommodated within the Hindu fold. In order to achieve this, the reformists turned to an unusual choice as their lead theorist.

### **Jains as Hindus: reforming caste, defining religion**

Savarkar's treatise, *Hindutva*, was published in the 1920s in the midst of rising communal strife, which seemed to have given a sense of urgency to the consolidation of 'Hindus' as a political bloc—but precisely who populated the category of Hindu remained an amorphous question. In his book Savarkar claimed to offer the answer to the conundrum 'Who is a Hindu?' In his view, *Hindutva* was a much broader concept than Hinduism: it was premised not on the religious aspect, but on the commonality of race, culture, and civilization, rooted in the ancient language of Sanskrit, and a sacred geography bounded between River Sindhu and the seas. This Hindu nation arose—naturally and spontaneously—in a hoary past out of this conjunction between territory, blood, and culture, and could not be limited to 'any particular creed or religious section thereof'.<sup>100</sup>

Savarkar failed to stir the imagination of Digambar Jains when *Hindutva* was first published. Even though many of the concerns, tropes, and rhetoric of Hindu nationalism—dying race,<sup>101</sup> *shuddhi*, unity, reform, and so on<sup>102</sup>—circulated through the Digambar public sphere at that time, they did so in a manner very different from how they were to emerge immediately after the Harijan temple entry laws and Independence. Savarkar, who had been absent from earlier Jain debates, now emerged as a key theorist of the reformist camp who were keen to justify the incorporation of Jains into the definition of Hindu in a wide spectrum of laws and statutes by insisting on the social and cultural oneness of Jains and Hindus.

<sup>100</sup> V. D. Savarkar, *Hindutva* (Mumbai: Swatantryaveer Savarkar Rashtriya Smarak Publications Division, 1999; 7th edn), p. 28; for a discussion on the 'essentials of *Hindutva*', see pp. 64–72.

<sup>101</sup> See P. K. Datta, "Dying Hindus": Production of Hindu Communal Common Sense in Early Twentieth Century Bengal', *Economic and Political Weekly*, vol. 28, no. 25, June 1993, pp. 1305–1319.

<sup>102</sup> See K. W. Jones, 'The Arya Samaj in British India, 1875–1947', in *Religion in Modern India*, (ed.) Robert D. Baird (New Delhi: Manohar, 1981); and also J. T. F. Jordens, *Swami Dayanand Saraswati: Essays on his Life and Ideas* (New Delhi: Oxford University Press, 1960).

The October 1949 issue of *Gnanodaya* attended especially to this question, reproducing an article by Savarkar, published first in the *Kesari*, where he explicated on the particular sense in which Jains were Hindus.<sup>103</sup> Given that ‘Hindusthan’ was the Jains’ fatherland as well as holy land (*pitrabhumi* and *punyabhumi*), he exhorted them to acknowledge without shame or hesitation that they were unalloyed Hindus. Just as Shias and Sunnis, and Catholics and Protestants fought violent religious wars, but continued to remain adherents of Islam and Christianity respectively, Jains and Hindus could not be divided. They are brothers born of the same seed and should congregate under the Hindu flag to defeat their common enemy, advised Savarkar. Other contributors, such as Sukhlal Sanghavi, who declared that Jains could well call themselves ‘Jain-Hindu, but never that we are not Hindus’, endorsed this.<sup>104</sup> In this reformist view, the expansive definition of Hinduism in the UOA, as in the statutes, was erroneous, not because it incorporated Jains within the definition of Hindu, but because it conflated Hinduism with Vaidic or Sanatani Hinduism, which was a stream of Hinduism, just as Jainism was. Pandit Banshidhar’s resolution to this was to suggest substituting ‘Hinduism’ with ‘*Bharatiya*’—another of Savarkar’s terms—or the phrase ‘all Hindu religions’ to refer to the full family of religions included within the definition. Indeed, he argued, if Vaidic religion were to be also added to this list, making it only one among several, it would allay fears about the absorption of Jainism or any other faith into Vaidic religion.<sup>105</sup>

It appears incongruous that Savarkar began to enjoy a spell of popularity in reformist circles—many of whom were avowed Gandhians who continued to preach Harijan temple entry in his name—just as he was under increasing scrutiny for his possible involvement in Gandhi’s assassination. What had changed? This newfound admiration for Savarkar’s doctrine, I argue, sprang from a pragmatic understanding of the post-colonial nation-state. *Gnanodaya*’s editorials, in issue after issue, warned in plain language that by becoming ‘non-Hindus’, Jains would be committing political and social suicide, and that by creating another incendiary situation—referencing partition—they would also be

<sup>103</sup> V. D. Savarkar, ‘*Jain Hindu hi hain, lekin kis arth main?*’, *Gnanodaya*, no. 4, October 1949, pp. 290–300.

<sup>104</sup> Pandit Sukhlal Sanghavi, ‘*Ek mahatvapooma patra: Jain Hindu samaj ka ang hai*’, *Gnanodaya*, no. 4, October 1949, p. 302.

<sup>105</sup> Banshidhar, ‘*Bhartiya sanskriti ke sambandh mai Hindu shabd ka vyapak artha*’, in *Banshidhar Abhinandan Granth*, p. 33. This was of course a wholesale borrowing from Savarkar.

responsible for their own absolute obliteration.<sup>106</sup> The Jains would be reduced to a situation much like that of the Jews, bereft of land and country.<sup>107</sup> Indeed, many reformers had begun to point to the consequences—real or imagined—of Digambar Jains' rejection of Hinduism. Pandit Banshidhar cautioned that the Jain *samaj* was making enemies of the numerically powerful Harijan community. He was particularly alarmed by the Madhya Pradesh chief minister's statement that Muslims should learn patriotism from Jains who had 'adopted India as their homeland'. Banshidhar fretted that the statement signalled the increasing acceptance of the refrain 'Jains are not Hindus'. Who is to say, he wondered, if in the future, they would be treated as non-Indians?<sup>108</sup> Implicit in this is the anxiety that, by distancing themselves from Hindus, the Jains would be identified too closely with Muslims, who were deemed to lie outside the national body. The claim of separation (from Hinduism) carried with it the risk of being expelled from the 'nation'.

In his tract Vidyarthi reproduced a pamphlet entitled 'Are 13 Lakh Jains Separate from Hindu *Dharma*? If yes, then what should the Hindus do?' published by one Deendayal Mishra, a Brahman. The pamphlet, which had purportedly been distributed in the thousands in Sagar (Madhya Pradesh), forecast that the path of isolationism would cost the Jains dearly. Obstinate excluding Harijans from Jain temples would turn them against the Jains—and because this injunction was based on the principle that Jains were not Hindus, caste Hindus too would retaliate by boycotting Jain traders, by withdrawing their children from Jain *gurukuls*, disallowing Jains the use of their cremation grounds, and refusing them the services of barbers, washermen, and domestic servants. Jain candidates would not be able to count on Hindu support during elections, nor expect any aid in times of crisis.<sup>109</sup>

Jain reformers impressed upon their readers that these were not empty threats but that in parts of central India, the social costs of separatism had already begun to appear. Jains were being dislodged from Hindu trusts and where earlier there had been no bar on them entering Hindu temples, ponds, and wells, they were now being lumped in with Muslims and forbidden from entering these places.<sup>110</sup> Vidyarthi

<sup>106</sup> *Gnanodaya*, no. 5, November 1949, pp. 396–399.

<sup>107</sup> *Gnanodaya*, no. 12, June 1950, p. 891.

<sup>108</sup> Banshidhar, 'Jain Mandir aur Harijan', pp. 29–32.

<sup>109</sup> Vidyarthi, '*Harijan mandir pravesh*', pp. 20–21.

<sup>110</sup> *Gnanodaya*, no. 5, November 1949, p. 397.

castigated the entire orthodox cast for imperilling the safety of poor rural Jains, who would no longer enjoy the protection and goodwill of Hindus in the event of a Hindu–Muslim conflict.<sup>111</sup> The cry of ‘Jains are not Hindus’ was seen to hark back to Jinnah’s demand for Pakistan, and Shantisagar was referred to repeatedly, and sarcastically, as ‘Mian Jinnah’. Just as ‘Jinnah’s cry of “Islam in danger” had provoked his followers into picking up arms,’ charged the reformists, ‘the blind devotees of Shantisagar seduced by his false slogans were driven to their weapons—telegrams and letters, putting the government in a quandary.’<sup>112</sup>

### **Conclusion: reformism, traditionalism, and the making of a new India**

This episode raises questions about three sets of interrelated polarities: the first between tradition and modernity; the second between secularism and religion; and, finally, a more encompassing one, between state and community.

Throughout the article we have used the terms ‘traditionalists’ and ‘reformists’ rather blandly, conveniently drawing upon self-appellations or terms thrown at each other by opposing camps. However, this begs the question: to what extent were traditionalists defending caste practices of exclusion by insisting that Jains are not Hindus. Concomitantly, to what degree were reformists driven by the principle of equality—one of the pre-eminent structuring principles of the modern state<sup>113</sup>—in seeking the opening up of Jain temples to former Untouchables? The rhetoric and conduct of actors in both camps could often be inconsistent or contradictory, thus muddying the conceptual waters. For example, although the Mahasabha was opposed to the printing of *Agams* as a repudiation of tradition, Shantisagar was an ardent proponent. Moreover, the mantle of reformism did not translate automatically into a commitment to liberal causes, for example, Varni’s opposition to widow remarriage was well-known and he was called upon to foil many a *panchayat* proposing to support it.<sup>114</sup>

<sup>111</sup> Vidyarthi, ‘*Harijan mandir pravesh*’, pp. 39–40.

<sup>112</sup> *Ibid.*, p. 18.

<sup>113</sup> Fuller, *The Renaval of the Priesthood*, p. 162.

<sup>114</sup> Varni, ‘*Porwar Sabha mai vidhva vivaha ka prastav*’, in *Meri Jeevan Gatha*, Vol. 1, pp. 261–266.

One of the reasons for the Jains' delayed engagement with the law has been attributed to the fear that traditional sources of authority would not enjoy due respect in the courtroom. Their sacred texts would be deemed no better or worse than the case law sitting on the desk next to them; the revered mendicants called in to testify would take the chair, like any commoner.<sup>115</sup> It is not until the arrival on the scene of three Western-educated legal reformers that the traditionalists can be seen to be overcome, but such a narrative would perforce paper over the central role played by traditional lay intellectuals—the pandits—and their investment in the establishment and resurrection of an 'authentic' tradition.<sup>116</sup> Besides, it was Shantisagar who, through his many public campaigns, became the face of legislative lobbying, making demands of both the colonial and post-colonial states. He inspired his followers to seek legal remedies in the courtrooms. He was not merely the embodiment of a pristine religious tradition in the community's negotiations with the state, he was himself a 'charismatic leader' and the chief interlocutor between the community and the state.

It is evident that traditionalists and reformists do not inhabit a binary, but in fact both are attuned to modernity's principles, institutions, and processes, as they are indeed committed to the recuperation or preservation of 'tradition'.<sup>117</sup> Perceptive scholars of Jain society have shown that 'reform' has been the broad descriptor for a variety of

<sup>115</sup> Werner Menski, 'Jaina Law as an Unofficial Legal System', in *Disputes and Dialogues: Studies in Jaina History and Culture*, (ed.) Peter Flugel (London: Routledge, 2006), p. 428; Cort, 'Jain Identity and Public Sphere in Nineteenth-Century India', p. 112.

<sup>116</sup> For instance, the pandits endeavoured to provide a Shastric foundation to Harijan temple entry, and before that to Dasa worship rights. They also regularly published critiques of texts which they deemed to be false, authored by allegedly ignorant and self-interested *bhattarak*s and *munis*. Parmeshthi Das Jain, '*Jain Samaj ke beesvin sadi ke pramukh andolan*', in *Nathuram Premi Abhinandan Granthi* (Tikamgarh: Premi Abhinandan Granth Samiti, 1946), p. 586.

<sup>117</sup> Wittrock has argued that modernity is characterized not by a conjunction of industrial and democratic revolutions, but by a set of 'promissory notes', which in turn shape the institutions we may deem modern. The singular feature of the modern age is the globalization of these promissory notes such that they provide the 'general reference points' for projects that seek their realization, as well the point of departure for those who oppose 'emblematic modern institutions'. Wittrock warns, however, that just because those speaking for tradition express and formulate their opposition with reference to the idea of modernity does not imply an abandonment of their 'ontological and cosmological assumptions, much less their traditional institutions'. Björn Wittrock, 'Modernity: One, None, or Many? European Origins and Modernity as a Global Condition', *Daedalus*, vol. 129, no. 1, 'Multiple Modernities', Winter, 2000, pp. 31–60.

movements and attempts to purify Jainism for over a millennia and is not the product of the encounter with colonialism or modernity.<sup>118</sup>

The Bombay Act, but more generally the temple entry laws, brought to the fore the question of the limits of the reformist state, and the extent to which it was to be allowed to intrude into the religious sphere.<sup>119</sup> In announcing that he had undertaken the fast as it was his *religious* duty to protect Jain temples, Shantisagar was framing the issue as a contest between two competing sovereignties, with himself the symbol of genuine religious authority with, interestingly, Gandhi representing a politicized, and hence tainted, religion—a mere political *sadhu*, as Shantisagar's followers dismissed him.<sup>120</sup> The reformists stood accused of wanting to secure *just* political rights for Jains, only too willing to sacrifice their temples to this end.<sup>121</sup> Jain traditionalists condemned temple entry legislation as an incursion of deracinated modernity, espoused by Western-educated elites, into the hallowed domain of religion. Their language echoed that of conservative Hindu opponents of reforms in Hindu personal law debates. But where Jain traditionalists differed from their orthodox Hindu colleagues was in actively mobilizing the promise of the Constitution. On the one hand, they undercut the principle of equality—but, on the other, they sought the unfettered exercise of another structuring principle of the modern state, namely, religious freedom.

Alongside, another normative claim is advanced: traditionalists were not simply protecting religion in the abstract, but, very specifically, the minority Jain *dharma* from the predatory advances of a majoritarian state, hence the call 'Jains are not Hindus'. Shantisagar's fast against temple entry law was turned simultaneously into a penance against the

<sup>118</sup> Dundas, *The Jains*, p. 251. Following Dundas, Cort has also argued for the centrality of reform in Jain tradition: see J. E. Cort, 'Defining Jainism: Reform in the Jain Tradition', in *Jain Doctrine and Practice: Academic Perspectives*, (ed.) Joseph T. O'Connell (Toronto: University of Toronto Press, Centre for South Asian Studies, 2000), pp. 165–191.

<sup>119</sup> It was not just Shantisagar who was exercised by the temple entry laws—for many academics and commentators too, these laws posed a question mark over the nature and practice of Indian secularism. D. E. Smith, for example, has argued that the state's reformism has resulted in a weakened internal autonomy of religions. D. E. Smith, 'India as a Secular State', in *Secularism and Its Critics*, (ed.) Bhargava, pp. 177–233.

<sup>120</sup> According to the traditionalists, Gandhi's actions were guided by politics rather than *dharma*. Gandhi's *ahimsa*, directed as it was towards other men, rather than all sentient beings (tiny and microbial as enjoined in Jainism) was limited, if not false. Quoted in Vidyarthi, '*Har'jan mandir praveshi*', pp. 62–63.

<sup>121</sup> Indralal Shastri cited in *ibid.*, p. 72.



inclusion of Jains in the definition of Hindus in Article 25; letters were sent and deputations despatched to meet with senior cabinet members to protest against this.<sup>122</sup> It should not surprise us, therefore, that the set of actors we associate with traditionalism—the South Indian *munis* and their followers—were at the forefront of the demand for minority status for Jains. Diwakar wrote persistent letters to Kasturbhai Lalbhai, the Ahmedabad industrialist who was nominated as a Jain representative to the Advisory Committee on Fundamental Rights in the Constituent Assembly, urging him to ensure that Jains were recognized as a minority and that their interests were not ‘ignored under the sweet deceptive slogan of Jain-Hindu unity’.<sup>123</sup>

While clearly there are continuities between the practices of the colonial and post-colonial states, there was a fundamental difference in the way in which disparate groups and communities came to evaluate and assess the two formations and their interventions in the religious domain. The Jain reformists aligned themselves with nationalist modernity and the state it had come to found, while viewing these as unambiguously Hindu. It has been argued that the Constitution is really a blueprint for the reform of Hindu society: from Articles 25 and 26, which prioritize public interests over religious claims, to Articles 15 and 17, which prohibit practices associated with Hinduism, all establish the wider regulatory powers that the state enjoys in relation to Hinduism.<sup>124</sup> It would appear that the reformists grasped this point only too well: for them, the survival and wellbeing of Jains rested in acquiescing to rather than flailing against this project. By opposing temple entry, they feared Jains would be seen as impeding the path of ‘national’ development. They derided as treasonous the traditionalist adherence to dogma, or what Anthony Giddens would term ‘formulaic truth’.<sup>125</sup> Varni’s tract *Jain Mandir aur Harijan* was held up as an offering in ‘defence of *dharma*,

<sup>122</sup> Manisha Sethi, ‘Minority Claims and Majoritarian Anxieties: The Jain Question’, *Economic and Political Weekly*, vol. 51, no. 49, 2016, pp. 55–63.

<sup>123</sup> Letter dated 9 December 1947. Microfilm, Reel Number 59, K-138, Nehru Memorial Museum and Library.

<sup>124</sup> Marc Galanter, ‘Hinduism, Secularism, and the Indian Judiciary’, *Philosophy East and West*, vol. 21, no. 4, October 1971, p. 477.

<sup>125</sup> A. Giddens, ‘Living in a Post-Traditional Society’, in *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order*, (eds) Ulrich Beck, Anthony Giddens and Scott Lash (Cambridge: Polity Press, 1994), pp. 56–109, especially p. 66. According to Giddens, tradition is merely repetition, even neurosis, given to ‘formulaic versions of truth’ which are fundamentally opposed to the ‘rational enquiry’ typical of societies that have been de-traditionalized. The reformist attack on their opponents seemed to

*samaj*, *lokniiti* (democracy) and the nation'<sup>126</sup>—a move that ends up conflating social and religious reformism with Hinduism, nation, and modern state practices.

Why Hinduism was the special recipient of the state's reformism has been answered most frequently by citing the new state's commitment to minorities,<sup>127</sup> but this fails to investigate the extent to which the Indian nation itself was identified with Hindu culture by the entire galaxy of Indian nationalists, inside and outside the Congress. This perforce blinds us to the ways in which practices of the post-colonial state nursed a barely dormant majoritarianism, of which an expansive definition of Hinduism was a key node.<sup>128</sup> Scholars have drawn attention to the residual character of the category of Hinduism, defined negatively by reference to those who lie outside it (Muslims, Christians, Parsis and Jews) and positively in terms of those to whom Hindu law applies.<sup>129</sup> Werner Menski attributes the inclusion of Jains (along with Buddhists and Sikhs) within the ambit of Hindu law to the invisibility of Jain and Buddhist law, arguing that the application of Hindu law in the colonial period or later statutes did not foreclose the space for Jain practices.<sup>130</sup> This does not, however, explicate the analytic move that allows Hinduism to emerge as the accretive category par excellence, attracting and collecting Buddhists, Jains, and Sikhs within its embrace. It is the same logic that underlies Savarkar's doctrine of civilizational and cultural unity of faiths born in India, as opposed to those whose holy lands lie elsewhere, and tells us why he could attain a degree of legitimacy in Jain debates, even as they rejected the Hindu Mahasabha.<sup>131</sup>

approximate precisely such a critique even as they set themselves up as the true custodians of tradition.

<sup>126</sup> Vidyarthi, *Harijan Mandir Pravesh*, pp. 5 and 17.

<sup>127</sup> For a discussion on this point, see Narendra Subramanian, *Nation and Family: Personal Law, Cultural Pluralism, and Gendered Citizenship in India* (California: Stanford University Press, 2014), p. 42.

<sup>128</sup> Sharafi has shown how Parsi legislators resisted the attempt to include Parsis within the Hindu Religious Endowments Act, fearing that as India moved towards independence, their rights as a minority would be imperilled under a majoritarian polity. Sharafi, *Law and Identity in Colonial South Asia*, pp. 95–96.

<sup>129</sup> Agnes, *Law and Gender Inequality*, p. 25; Galanter, 'Hinduism, Secularism, and the Indian Judiciary', p. 471.

<sup>130</sup> Menski, 'Jaina Law as an Unofficial Legal System', p. 431.

<sup>131</sup> To be sure, the magazine *Gnanodaya*, in the issue that carried Savarkar's article, also issued warnings to its readers about the 'communal' designs of the Hindu Mahasabha, which, according to the editors, only served the interests of its Brahman leaders under

The Hindu code bill and temple entry laws reflected this understanding, as did a whole range of other judicial, legislative, and executive pronouncements. The 1950 Presidential Order appended to Article 341 limits only those professing Hinduism to the entitlements due to scheduled castes, with successive amendments incorporating Sikh low castes and Neo-Buddhists within Hinduism, while rebuffing demands for the inclusion of Christian and Muslim caste groups.<sup>132</sup> Suspicion of religions deemed foreign has been at the heart of anti-conversion laws and their structure and provisions are designed to preserve the unity of the Hindu community from coercion, fraud, or allurements.<sup>133</sup> Most recently, the Citizenship Amendment Act seeks to provide a constitutional scaffolding to defining citizenship through religious categories, making a clear distinction between those faiths born in India and those outside.<sup>134</sup>

Let us return for a moment to the two judgments of the Bombay and Madhya Pradesh high courts discussed earlier. The recognition of denominational and sectarian differences, argued Galanter, imposed a severe limitation on the extent of rights of entry to former Untouchable groups.<sup>135</sup> If the resolution to reconcile denominational prerogatives with the need to end exclusion on grounds of Untouchability in *Bhaichand* and *Puranchand* is unsatisfactory, as it surely is, the other avenue appears to be to accept the state counsel's view that Jain

the rhetoric of Hindu unity. 'Sampadakiya: Jain banaam Hindu', *Gnanodaya*, no. 4, October 1949, pp. 307–311.

<sup>132</sup> See Tanweer Fazal, 'Scheduled Castes, Reservations and Religion: Revisiting a Juridical Debate', *Contributions to Indian Sociology* (n.s.), vol. 51, no. 1, 2017, pp. 1–24.

<sup>133</sup> In 1954, the government of Madhya Pradesh appointed the Niyogi Commission to investigate the role of foreign missionaries in the state. The Commission muddied the distinction between consent and force, and laid the framework for the way in which conversions have been viewed thereafter. In 1977, the Supreme Court, in upholding the constitutionality of the anti-conversion laws of the states of Orissa and Madhya Pradesh, ruled that the right to propagate under Article 25 could not be understood as the right to convert: *Rev. Stainislaus v. State Of Madhya Pradesh & Ors* 1977, 1 SCC 677. The judgment paved the way for the enactment of a string of state laws restricting conversions. Laura Dudley Jenkins, 'Legal Limits on Religious Conversions in India', *Law and Contemporary Problems*, vol. 71, no. 2, 2008, pp. 109–128.

<sup>134</sup> Neerja Gopal Jayal, 'Faith-based Citizenship: The Dangerous Path that India is Choosing', *The India Forum*, published online on 1 November 2019, available at <https://www.theindiaforum.in/sites/default/files/pdf/2019/11/01/faith-based-citizenship.pdf>, [accessed 20 October 2020].

<sup>135</sup> Galanter, 'Temple-Entry and the Untouchability (Offences) Act, 1955', *Journal of the Indian Law Institute*, vol. 6, nos. 2–3, April–September 1964, pp. 185–195.

temples had been turned into Hindu ones by introducing a law. In saying that the Constitution ‘empowers the state to confer cross-denominational rights; not merely to enter and use premises not only of the same religion or denomination, but *any* Hindu institution’,<sup>136</sup> Galanter’s resolution is in fact no different, and leaves unattended the effect that the aggregation of religions, sects, and denominations produced under the label ‘Hindu’.

There was a stream of cases, beginning in 1950s, ranging from whether Jains were to be assessed as ‘Hindu Undivided Family’ for taxation purposes, to whether they would be construed as a religious minority and granted the right to mobilize Articles 29 and 30 of the Constitution to establish and administer educational institutions without interference from the government. At the heart of these issues was the question: are Jains Hindus? Over the years, the judicial response to this question has travelled from an understanding that ‘faith is one thing and law is another’<sup>137</sup>—applying Hindu law to Jains would not imply that Jains were not a separate faith but only that they were deemed to be Hindus for the limited purpose of the application of the law—to situating Jains firmly within the embrace of the Hindu faith. To admit that Jains were not Hindus would defeat the ‘pious concept of WE THE PEOPLE’ [sic],<sup>138</sup> and would be tantamount to surrendering to ‘fissiparous tendencies’,<sup>139</sup> the latter set of judicial pronouncements held. In adjudicating on whether a dental college established by Jains could be conferred with the status of a minority institution, the Rajasthan High Court displayed a mortal fear of the ‘fragmentation of *Indian* society’ (emphasis added). It gave itself away in its sullen insistence that ‘there cannot be any classification or micro-classification so as to divide Hindus in the context of Indian origin’. Similarly, the Supreme Court concluded, ‘Jainism is a reformist movement amongst Hindus like Brahmasamajis, Aryasamajis and Lingayats’, and warned the National Minorities Commission, which in 1992 recommended the granting of minority status to Jains, that such moves could jeopardize the very ‘integrity and unity of India’.

We see a double elision in this judicial solicitude: Jainism sliding smoothly into Hinduism, and just as easily, Hinduism coming to stand

<sup>136</sup> Ibid., p. 194. Emphasis in original.

<sup>137</sup> *Pannalal v. Sitabai*, AIR 1953 Nag 70. The court was examining whether the Hindu Women’s Rights to Property Act applied to Jains. On the judicial response to these questions, see Sethi, ‘Minority Claims and Majoritarian Anxieties’.

<sup>138</sup> *State Of Rajasthan And Ors. v. Vijay Shanti Educational Trust*, RLW 2003 (4) Raj 2568.

<sup>139</sup> *Bal Patil v. the Union of India*, 2005 (6), SSC 690.

in for India. Even the recognition of Jainism as a separate religion comes to invoke the spectre of the 'division' of the country.

The question as to whether Jains are Hindus or not has not disappeared. It surfaces from time to time, most notably in discussions around the minority status that Jains were granted in 2014, but on which there is still no consensus. In the mid-1950s, temple entry legislation was the node through which these concerns, most importantly the fate of the community in independent India, was articulated. The relationship between state and communities, and, more specifically, our understanding of minorities and majorities is usually analysed and understood through the relationship between the state and India's largest minority, namely the Muslims. A focus on the Jains—by virtue of their patently 'betwixt and between' position, to borrow Victor Turner's evocative phrase<sup>140</sup>—illuminates in sharp relief the civilizational and religious categories embedded in state practices and in the ideology of nationalism, which undergirds and legitimates those.

<sup>140</sup> Victor Turner, *The Ritual Process: Structure and Anti-structure* (New York: Cornell University Press, 1991; 7th edn), p. 95. Liminality, according to Turner, is necessarily characterized by ambiguity and its fraught relationship with systems of classification.