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“Imagining the Public in Modern India: Liberalism, Law, Religion”

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What is a Public? Notes from South Asia

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In South Asia, as elsewhere, the category of ‘the public’ has come under increased scholarly and popular scrutiny in recent years. To better understand this current conjuncture, we need a fuller understanding of the specifically South Asian history of the term. Toward this end, our discussion begins by considering more than two decades of scholarship that have worked to excavate this history. We propose that two principal methods or approaches—the genealogical and the typological—have characterised this scholarship. We then suggest, more in the mode of genealogy, that the category of the public has been closely linked to the subcontinental history of political liberalism. Finally, we discuss how the essays collected in this special issue challenge some of liberalism’s key presuppositions about the public and its relationship to law and religion.

Keywords: Publics; public sphere; law and religion; secularism; liberalism; colonial India; post-colonial India

Reimagining the Public

That the past decade has seen a surge of scholarly interest in publics is hardly surprising: global culture in the early twenty-first century has complicated the distinction between public and private in seemingly unprecedented ways. In South Asia, as elsewhere, new technologies have opened up intimate life to public scrutiny, whether through state surveillance of ‘terrorist’ networks, the digital self-fashioning encouraged by websites like shaadi.com, or ‘biometric’ identity cards that mark the body itself as a form of public information. Gender politics, meanwhile, have determined who can move safely in public, as the 2012 rape and murder of a Delhi college student on a city bus so tragically demonstrated. Here, too, sudden inversions of public and private have been the order of the day, whether in the 2009 ‘pink chaddi campaign’ (in which hundreds of women mailed underwear to a spokesman for the Sri Rama Sena to protest threats against couples caught ‘being together in public’ on Valentine’s Day), or in the abrupt re-closeting of gays and lesbians after the Supreme Court upheld Section 377 of the Indian Penal
Code in 2013. Finally, ongoing debate about the proper place of religion has occasioned still more contests over the limits of the public. On the one hand, the highly-publicised flesh of figures like Baba Ramdev and Anna Hazare was rendered a symbol for bringing corruption to light; on the other, the call to censor Wendy Doniger’s *The Hindus* hailed a public defined by that which it would prefer to keep hidden.

In the twenty-first century, it seems, ‘the public’ is a site where matter is perpetually out of place. In such a context, public culture, as a ‘zone of debate’, becomes fixated on policing the borders of the public, even as those borders remain in perpetual flux. During the nineteenth century, as Partha Chatterjee has influentially argued, the ‘inner’ domain of religion, literature, and domesticity incubated an anti-colonial politics that erupted into public view only later. The abrupt inversions of publicity and privacy that mark our contemporary moment recall this longer history, even as they point towards an undetermined future.

To understand the current conjuncture, then, we need a fuller sense of the genealogy of ‘the public’ in South Asia. This collection of essays provides one set of possible starting points for such an inquiry. In doing so, it echoes and complements other recent work that asks how fundamental categories of modern thought (‘culture’, ‘the social’) have been adapted in the subcontinent. As a whole, these essays suggest that South Asia is not just a special ‘case’ for the

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articulation of modern notions of the public; rather, we hope to show that by theorising the public from South Asia, we gain unique perspectives on how this central category of modern thought can be re-imagined today.

This collection revisits and expands the project begun by Sandria Freitag’s influential 1991 special issue of the journal *South Asia* on ‘Aspects of the Public in Colonial South Asia’.\(^4\) Much, of course, has changed since 1991—not least, the ‘liberalisation’ of the Indian economy that began in July of that year. The major argument of the 1991 volume, however, remains as pertinent today as it was nearly twenty-five years ago. As Freitag insists, we should work to provincialise ‘the public’—approaching it less as a normative model for modern society than as a culturally peculiar notion caught up with the particular history of the North Atlantic region (i.e. ‘the West’). The chief task confronting the scholar, by this account, is one of translation. We should, in Freitag’s words, try to identify the ‘indigenous bases onto which western European notions of “the public” could have been grafted’.\(^5\) In his contribution to the 1991 volume, Dipesh Chakrabarty provides an example that helpfully illustrates the analytic issues involved in such an effort. As he shows, it is possible to describe the streets of Banaras as ‘public’ space. In doing so, however, one risks effacing the culturally-specific distinction between ‘inside’ and ‘outside’, between home and bazaar, and the world of meanings (about family, ritual cleanliness, auspiciousness, etc.) that this distinction implies. To sound this cautionary note is not to deny the

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potential analogy between the concepts of ‘public’ and ‘outside’; it is simply to point out that, in
drawing analogies, we need to remain aware of what gets lost in translation.6

In revisiting the project laid out in the 1991 special issue, we also necessarily revise it, in
part by resisting too strict a distinction between North Atlantic and South Asian materials. The
British ‘public’ was never a totalising sociological reality; rather, it was an unstable assemblage
of shifting ideas and institutions, defined as much by its internal contradictions as by its
normative force. South Asian culture, for its part, was no less dynamic. Thus, in designating
particular South Asian cultural forms as analogous to North Atlantic ‘publics’, we need to be
careful not to reify either set of materials or to abstract them from their complex and contested
histories. What is more, we need to consider how the Anglophone term ‘public’ has, since the
nineteenth century, become an integral part of the South Asian scene. As the essays collected
here demonstrate, ‘the public’ is seldom a neutral descriptor; rather, as a term with legal,
political, and cultural ramifications, it often shapes the objects that it describes.

Freitag’s ‘Aspects of the Public’ highlighted ‘two key areas’ of inquiry: urban space and
literary form. In complementary fashion, this set of essays highlights two key areas as well as
two key problematics. While they call attention to the continued importance of print culture and
religious polemics in defining ‘the public’, especially in the colonial period, they also suggest
how the legal regulation of publics and the presence of religion in the ‘secular’ public sphere
trouble the normative presumptions of classical liberalism (the body of thought with which the
concept of ‘the public sphere’ is most closely associated). Where liberalism posits the public as
independent from the state and defines religion as constitutively ‘private’, the essays collected
here suggest a much more complex set of entanglements among these domains.

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In this introductory discussion, we have three principal aims: first, we consider how scholars working in South Asian studies have approached the question, ‘What is a public?’; second, we discuss the entanglement of ‘the public’ with the history of liberalism in the subcontinent; third and finally, we turn to our two major themes—law and religion—in order to challenge one of liberalism’s dominant narratives about the public. According to one standard line of thought, the public is both constitutively separate from the state, as well as linked to it; public debate places a check on the potential abuses of state power, even as the state legitimates its rule through its claim to represent the public’s interests. The essays that follow from this introduction (arranged in roughly chronological order) complicate this picture by a variety of means, including by positioning the public as the object rather the agent of cultural regulation.

Locations of ‘the Public’: Genealogy or Typology?

Broadly speaking, we submit that there are two ways that scholars have gone about studying South Asian publics: the typological method and the genealogical method. Both methods, perhaps inevitably, take North Atlantic notions of ‘the public’ as a primary point of reference; but their approach to these notions differs significantly. The typological approach looks for moments when South Asian ideas and practices seem similar to, or function like, North Atlantic ideas and practices of ‘the public’. Broadly social scientific in spirit, it tries to apply ‘the public’ as a generalisable concept to South Asian materials. The genealogical approach, conversely, rejects the impulse to divorce the concept of the ‘the public’ from its convoluted history. Instead, it works to further historicise the concept and practice of the North Atlantic ‘public’ by asking how this notion traveled to South Asia and how it was adapted from within particular institutions and power structures. These two approaches cannot, of course, be neatly
separated. Nonetheless, they do remain distinct orientations within the study of South Asian publics.

To clarify the distinction between these two approaches, we turn to another English-language term that has gained considerable purchase in South Asia: ‘religion’. As recent scholarship has emphasised, this distinctively modern concept constrains our analysis of South Asian culture, as by implying a clear distinction between the ‘sacred’ and the ‘secular’. Consequently, scholars of early modern India have increasingly sought out alternate terms (e.g. ‘ritual’), which allow them to sidestep ‘religion’ in approaching topics like sacred kingship.\(^7\) For the colonial and post-colonial periods, however, the problem is more complicated: no longer a culturally foreign concept that we as scholars impose on South Asian materials, ‘religion’ becomes part of the conversation in South Asia, actively shaping modern cultural practice in significant ways. This was especially true for groups like the Arya Samaj, which deployed the English word strategically in their publications and adjusted their usage of the Hindi word *dharm* either to approximate it more closely or to avoid its semantic reach.\(^8\)

Surely something similar is at play with the concept of ‘the public’. Like ‘religion’, this term has come to shape South Asian cultural practice. On the one hand, its prominence in colonial and post-colonial legal codes has made the concept of ‘the public’ a tool for the juridical management of society. Thus, as William Mazzarella shows here, notions of ‘public place’ and ‘public morality’ determined the types of dance that were deemed legally permissible in Mumbai

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\(^7\) For an example of this approach, see A. Azfar Moin, *The Millennial Sovereign: Sacred Kingship and Sainthood in Islam* (New York: Columbia University Press, 2012).

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in the mid 2000s. In a slightly different vein, as Ritu Birla demonstrates in her contribution, the legal concept of ‘public interest’ was central to the emergence of neo-liberal administrative power in the 1990s. On the other hand, the concept of the public also shaped civil society institutions like the press. This was in part because newspapers rhetorically aligned themselves with the courtroom as a model for disinterested ‘public’ judgment on ‘private’ matters (see David Gilmartin and J. Barton Scott, this volume). But there were also lines of influence that did not run through the state or civil society. For example, nineteenth-century intellectuals like Sayyid Ahmad Khan consciously emulated the style of the same English newspapers (Tatler, The Spectator) that are now hailed as paradigmatic for the Enlightenment ‘public sphere’ per se (see Brannon Ingram, this volume).

Not surprisingly, colonial and post-colonial thinkers have struggled with how best to translate the concept of ‘the public’ into South Asian languages. Appearing at first in English (as in Rammohun Roy’s ‘Appeal to the Christian Public’ of 1820), the word began to enter the various vernaculars by mid century. In the 1850s, journalist Karsandas Mulji tried to translate ‘public spirit’ into Gujarati (Scott, this volume). In the 1880s, journalist and novelist Abdul Halim Sharar began to speak of a nascent ‘Islami pablik’ in Urdu.\(^9\) Transliteration was easy enough, but how ‘the public’ was to be translated into South Asian languages remained something of a puzzle. Did it, as Mulji suggested, denote the ‘outward’ or ‘apparent’ (jaher) aspect of something? Or was it better, as Ashraf ‘Ali Thanvi seemed to do in the 1910s, to align ‘the public’ with the ‘awamm’—a term that traditionally distinguished lay Muslims from the scholarly elite (‘ulama) and connoted ‘commonness’, ‘ordinariness’, and ‘generality’ (Ingram, this volume)? As Francesca Orsini has argued elsewhere, Hindi-language writers ‘struggling to

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find equivalents for this crucial word in the political vocabulary of modernity’ ended up distinguishing between two distinct senses of the term: ‘public’ in the sense of pertaining to the government (sarkari); and in the sense of ‘pertaining to the community’ (jati, janta, lok, sarvasadharan) (cf. Orsini, this volume).  

Even in the North Atlantic world, the meaning of ‘the public’ was never fixed. The standard etymology of the word ‘public’ begins with the Latin publicus (‘of or belonging to the people as a whole, common, universal’). This term entered Anglo-Norman in the thirteenth century and eventually accrued an array of meanings: ‘open to general observation’; ‘in print’; ‘prominent, well-known’; ‘official, professional’; ‘carried out or made on behalf of the community by the government or State’; ‘the body politic’; ‘a writer’s readership’ or a ‘performer’s audience’. In Habermas’ estimation, the modern sense of ‘public’ emerged in English only in the late seventeenth century, spreading to German and French in the eighteenth. During this period, ‘public opinion’ came to refer to ‘the critical reflections of a public competent to form its own judgments’. It was thus defined against the less ‘enlightened’ beliefs of the unlettered masses. In short, by the time the Anglophone ‘public’ came to India, the term was already a site where multiple meanings and histories intersected, without ever quite adding up into a single entity. Indeed, ‘the public’ is a term that is most often defined in terms of what it is not—a marker of conceptual instability if ever there was one.

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This conceptual instability is all the more evident when we move from genealogy to typology—that is, from tracing how the North Atlantic ‘public’ travelled to South Asia to identifying concepts and practices that seem to qualify as ‘publics’ in a generalisable social scientific sense. Here too translation is key. Thus, even while proposing *loka* (‘the people’ or ‘the world’) as an appropriate Sanskrit-Marathi rendering of ‘public’, Christian Novetzke notes the semantic distance between these two terms.\(^{13}\) To help ease such problems, some scholars have suggested that ‘publicity’ may be more elastic than ‘the public’. Farhat Hasan, for instance, draws on Mughal-era examples as diverse as Islamic sermons in Surat, the elaborate forms of intercommunication between a seventeenth-century Sufi master and his students in the Deccan, and the celebration of Holi in Ahmedabad, to make a case for ‘a vibrant space of publicity’ in which ‘normative claims could be raised, redeemed, or rejected’ among non-elites in a way that made it a far cry from Habermas’ ‘liberal public sphere’.\(^{14}\)

Indeed, we do not suggest that there is a moment when ‘the public’ triumphantly ‘arrives’ in South Asian contexts. Like modernity itself, its lineages are far too muddled to trace in such a fashion.\(^{15}\) Recent scholarship has demonstrated the substantial continuity between pre-colonial and colonial ‘publics’—or, more precisely, practices that can be described as constituting ‘publics’. As C.A. Bayly and others have shown, indigenous forms of what can be termed ‘the public’ not only predated the British, but were profoundly resilient in the face of colonialism. At least during the first half of the nineteenth century, the British ‘informational order’ did not so much displace these forms as augment them; the British state had to rely on pre-colonial modes

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of information gathering, just as colonial print culture built on existing economies of knowledge, ranging from astrology to medicine.\textsuperscript{16} The rise of print culture in the nineteenth century likewise built on existing cultural practices. Vernacular newspapers in Persian and Urdu maintained striking continuities with Mughal-era \textit{akhbarat}.\textsuperscript{17} Just as importantly, print was shaped by the subcontinent’s thriving cultures of orality.\textsuperscript{18} The commitment of Allahabad’s Belvedere Press to the publication of Awadhi Sant poetry, for example, indicates how early modern oral devotionalism defined the printed canon of Hindi literature (Orsini, this volume).

Meanwhile, ‘public’ debate continued to proliferate in a variety of forms (e.g. \textit{shatrarth, munazara, majalis, musha’ira}), even as (in Avril Powell’s narrative) they moved from royal courts and the homes of the nobility to broader forums. In villages, festivals, and town fairs, and in lithographed screeds and tracts, Muslims debated Hindus, Christians debated Muslims, Hindus debated Christians, and members of each debated each other, reifying religious boundaries both internal and external.\textsuperscript{19} If by the end of the nineteenth century, the native informant, spy, and news-runner had mostly been displaced by the postal system, telegraph, and railway, the cultural worlds that they had established lived on, albeit in altered form. Like modernity itself—‘a global and \textit{conjunctural} phenomenon’ in Sanjay Subrahmanyan’s words, ‘not a virus that spreads from

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one place to another”—the public assumed multiple forms in multiple contexts that resist neat teleologies.20

Any good typological account of South Asian publics, of course, needs to consider the extent to which they are ‘split’—fractured along lines of language, caste, class, religion, and gender.21 In the colonial period, the ‘middle class’ constituted itself as such partly by establishing ‘a public sphere, where alone its political opinion could form and represent itself’.22 This vernacular public sphere, whether in Hindi or Telugu, was caught up with the question of language reform.23 It was also caught up with questions of caste. This latter question has become increasingly prominent in recent years, as when a Dalit literary group symbolically burned a Premchand novel in 2004.24 Here, we see the formation of a ‘counterpublic’ in Nancy Fraser’s sense, in which a ‘subordinated social group’ establishes a ‘parallel discursive arena’ in order to ‘circulate counterdiscourses’ about a dominant social group.25 To make sense of such fissures in the public, we can turn to Neeladri Bhattacharya, who presents modern Indian publics as caught between competing forces of ‘homogenization and segmentation’.26 Never unitary, ‘the Indian public’ is also more than the sum of its discrete parts.

If there is one lesson to be drawn from all this, it is that ‘the public’ is never simply an empirical object. It is always also a category of interpretation. ‘The public’, moreover, is not an external category that scholars impose on modern Indian materials. Rather, precisely as an English-language term, it is very much internal to the self-understanding of colonial and post-colonial South Asia. To use a slightly old-fashioned scholarly idiom, ‘the public’ has been an ‘emic’ rather than an ‘etic’ term in South Asia since at least the 1820s. As scholars, we are inheritors of this history and should situate our work accordingly—including by clearly differentiating among three distinct questions. First, what are the major forms of collectivity in modern South Asia? Second, to what extent is ‘the public’ an adequate model for conceptualising these forms? Third, what is the history of interpretation whereby these forms of collectivity have been directly or indirectly shaped by concepts of the public? Of course, if the concept of ‘the public’ has shaped collective life in modern South Asia, it has also, and just as surely, been re-shaped by its multiple South Asian interpreters. It is partly in order to recover this history of interpretation that we call attention to the specifically South Asian genealogy of the term—a genealogy inseparable from the history of liberal political thought in the subcontinent.

**Liberalism and the Public Sphere**

Jürgen Habermas’ *The Structural Transformation of the Public Sphere* (1962) remains a touchstone for the study of publics. Its belated English translation in 1989 occasioned an interdisciplinary debate about the rise and fall of the public sphere that lasted well into 1990s—providing the conceptual framework for (among other things) Freitag’s ‘Aspects of the Public in Colonial South Asia’.

For Habermas, the ‘public sphere’ (*Öffentlichkeit*) is a historically specific formation that emerged in the late seventeenth century and declined in the late nineteenth with the rise of mass
culture and modern bureaucracy. His book’s ostensible aim was one of immanent critique: by analysing how the internal contradictions of the Enlightenment public sphere ultimately caused that sphere’s dissolution, Habermas hoped to recuperate for contemporary political thought the utopian kernel at the heart of the Enlightenment. Throughout his later career, Habermas has remained among the most articulate champions of political liberalism, even while modifying some of his earlier claims (including, for example, his claims about religion).27

There are many criticisms of Habermas’ work. Some scholars question the historical accuracy of his narrative.28 Others insist that his fundamental categories should be re-thought, as through feminist or queer theory.29 In keeping with both types of critique, we would point to a particularly striking omission from Habermas’ account (and one of obvious importance for the essays collected here): empire. As two generations of scholars have argued, to study Britain and France in isolation from their overseas colonies is to provide a history of modernity that is both historically dubious and analytically impoverished. To understand modernity, we need to understand how the cross-currents of empire shaped colony and metropole alike.30 Political liberalism, after all, has been a global affair since at least the eighteenth century.31 So, presumably, has the concept of the ‘public sphere’. Indeed, there are good reasons to think that interaction began even earlier than this. For example, John Roe’s reports on the interreligious civility of the Mughal court may have informed seventeenth-century English debates about

29 Michael Warner’s Publics and Counterpublics is exemplary in this regard.
religious ‘toleration’. If this is the case, Akbar’s late-sixteenth-century parliaments of religion would not just have mirrored liberalism; they would have directly influenced it.\(^{32}\) Regardless, it seems clear that by the late eighteenth century, imperial scandals like the Warren Hastings trial were formative for the self-conception of a British public increasingly defined by its moral relationship to the colonies.\(^{33}\)

Liberalism, as is now well known, was one of the principle idioms of empire. The colonies provided a laboratory for the experimental social reforms proposed by Utilitarians and others, especially in the early nineteenth century. Liberalism also, in its expansively universalist spirit, proved a principal means of denying cultural difference so as to enable British cultural hegemony. It is not that liberalism and empire always paired together. On the contrary, as Karuna Mantena argues, the imperial state largely abandoned liberal justifications for British rule in India after 1857, preferring instead to emphasise culture as an ‘alibi’ of empire. What is more, as Andrew Sartori reminds us, tensions internal to liberalism have allowed it to emerge as a key means of critiquing imperial capital, as by insisting on the integrity of small landholders’ property rights. Liberalism is not reducible to the state-backed \textit{laissez-faire} policies of either the nineteenth or the twenty-first centuries.\(^{34}\)

It is not our intention to intervene directly in these debates. We simply want to point out that the idea of ‘the public’ was central to colonial liberalism (and remains so to post-colonial

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\(^{33}\) Nicholas Dirks, \textit{The Scandal of Empire} (Cambridge: Harvard University Press, 2006).

neo-liberalism, as Birla shows in her essay here). Indeed, the ideal of ‘government by discussion’—to invoke Walter Bagehot’s 1872 definition of parliamentary democracy—lived on in colonial public culture even after the imperial state, by Mantena’s account, abandoned liberalism as a justification for empire. To approach liberalism via ‘the public’ is thus to highlight the extent to which the history of liberalism in India exceeds the history of the state: precisely because the colonial state asked that Indian elites internalise liberalism’s political lexicon, this lexicon dispersed beyond the state’s immediate purview, even as it continued to orient itself toward the state. ‘Much of local politics’, as Douglas Haynes observes, ‘involved conflicting attempts by elites to construe the meaning of the concept public among themselves and in negotiation with the Anglo-Indian rulers’. This was true, moreover, both in English and in the vernacular languages. To understand the ‘development of democratic cultural forms in India’, then, we need to unpack what ‘local figures meant when they used terms such as public opinion, the public good, and the nation’.35

One clue is to be found in a speech on ‘The Means of Ascertaining Public Opinion in India’ that Sir Bartle Frere delivered in 1871 to Dadabhai Naoroji’s East India Association. Frere opens with a question that he notes is ‘almost always asked in a tone which rather implies an inevitable negative answer’: ‘Is there such a thing as public opinion in India?’ He then proceeds to distinguish between ‘public opinion’ and ‘published opinion’, defining the former as ‘any opinion which is not personal nor peculiar, and which is shared and more or less expressed by large bodies of men’. The only difference between English and Indian public opinion, he argues, is that the latter is ‘less articulate’; its many voiceless subalterns have yet to be trained to speak in a way that would help the colonial state avoid another Mutiny. The ‘Press’, which ‘represents

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the opinions of a mere fraction of the masses of India’, does not resolve this problem to Frere’s satisfaction. Instead, he proposes a layered system of councils (village, district, provincial), each of which would be tasked with ‘representing’ the opinions of its constituents to its superior body.  

Here, we see how the concept of ‘public opinion’ shapes state practice. Frere invokes it to argue for a system of representative government that recalls the parliamentary ideal of open critical discussion, even while working to ensure that discussion reinforces the authority of the state, both symbolically (these councils position the state, not the press, as the guardian of public opinion) and practically (by augmenting the state’s access to information that will safeguard its power). If Frere’s remarks invoke the symbolic authority of ‘government by discussion’ while sidelining its substance, they perhaps anticipate the function of the ‘commission as form’ in the post-colonial period (see Rupa Viswanath, this volume).

The strong ‘associational culture’ that arose in colonial India thus often echoed the liberal rhetoric of the British state. The proliferating voluntary societies of the late nineteenth century were institutionally similar to the system that Frere proposed, structured as they were into regional branches organised by the liberal logic of ‘representation’. Some of these organisations claimed not only to represent ‘public opinion’, but also (as one such society in Lucknow would have it) the ‘public good’ (rifah-i ‘am). Quintessentially liberal, these societies emphasised debate, deliberation, and the civic agency of the self-determining individual.

Despite its universal aspirations, however, the public comprised of these voluntary societies was a bourgeois phenomenon defined through its contrast with the ‘public arenas’ of

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37 For further discussion of these themes, see Scott, ‘Aryas Unbound’.
the streets.\textsuperscript{39} It was also prototypically male, more often taking women as the object of reform than as speaking subjects in their own right.\textsuperscript{40} Starting in the late nineteenth century, the question of how best to conjoin these various publics came to preoccupy nationalist thinkers like B.G. Tilak, whose promotion of the Ganesh festival is emblematic in this regard.\textsuperscript{41} By the early decades of the twentieth century, movies and other mass media had begun to displace publics formed around print and civic associations. Increasingly, the ‘crowd’ was becoming the face of the public, in India as elsewhere.\textsuperscript{42}

The resulting crisis in liberal notions of the public prompted a flowering of public sphere theory in the 1920s. While Walter Lippman dismissed the deliberative public as a ‘phantom’ and Carl Schmitt claimed that ‘modern mass democracy has made argumentative public discussion an empty formality’, John Dewey sprang to the defence of publics as fundamental to democracy.\textsuperscript{43} It would be extremely interesting to read India back into this scene. How, one might ask, did these debates inform the work of Dewey’s former student, B.R. Ambedkar? Ambedkar once told his friends that if ‘Dewey died, I could reproduce every lecture verbatim’.\textsuperscript{44} Should we hear echoes of Dewey, then, in Ambedkar’s later claim that caste ‘has killed public


\textsuperscript{41} Raminder Kaur, \textit{Performative Politics and the Cultures of Hinduism: Public Uses of Religion in Western India} (Delhi: Permanent Black, 2003).


As Ajay Skaria suggests in his contribution to this volume, Ambedkar’s conversion to Buddhism can be read as an effort to create a ‘civil religion’ in the tradition of Dewey, ‘concretising the abstractness of the rights of man’ in a way that calls attention to the place of the Dalit as ‘minor’ figure. How else might nationalist leaders have re-thought 1920s liberalism in relation both to the particular conditions of modern India and its commonalities with the wider world?

The essays collected here do not share a single perspective on any of these questions. Taken as a whole, however, they indicate the prominence of two themes in current thinking about publics: law and religion. Both themes suggest inadequacies in the liberal notion of the public sphere. Where liberalism posits a public entirely independent of the state, these essays indicate the extent to which the public is defined and regulated through juridical institutions. Where liberalism stipulates that religion remain a private affair, these essays demonstrate the vibrancy of public religion.

Constituting the Public: Entanglements of Law and Religion

Since the colonial period, the Indian public has typically been imagined as a ‘deficient entity, to be contained, improved, or transcended, rather than one to be meaningfully engaged by the state’.

It was thus consistently the object of what William Mazzarella and Raminder Kaur term ‘cultural regulation’. Indian publics were seldom thought to be ‘public’ enough. They had to be educated, reformed, and reworked before they could aspire to the name. From this vantage point,

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far from self-constituting, the public emerges here as something that comes into being when regulated from without.

Instead of taking this apparent deficiency as an idiosyncrasy of colonialism, it perhaps makes more sense to see it as telling us something important about publics more generally: they are constituted by overlapping networks of state and civil regulation. Take, for example, the set of civil laws governing the market economy. As Ritu Birla has argued, ‘market governance’ promoted a ‘concept of the public’ that functioned ‘as a shorthand for the supra-local terrain of market exchange’. This terrain, comprised of economic actors disembedded from traditional communities, did not emerge spontaneously; rather, it was produced partly through the force of the law itself. Where Birla’s earlier work analyses the legal constitution of the market-as-public in late colonial India, her article here tracks how a series of court decisions in the 1990s redefined ‘public interest’ in a manner closely aligned with the emergent administrative style of neo-liberal governmentality. By attending to the legal regulation of the market, Birla challenges the presumed distinction between the state and the economy, demonstrating not only the historical contingency of the ‘public’ and the ‘private’, but also the extent to which both domains are tools of juridical administration. Here, ‘the public’ appears simultaneously as the object of the state’s ‘benevolent authority’ and the ‘instrument’ of the juridico-economic order.

Much the same can be said for religious publics. In order to grant freedom to religion, the secular state must first determine what precisely counts as ‘religion’, thus adjudicating whether a given text or practice qualifies for state protection. Ironically, then, religion can only be free

from state interference once it has received the state’s imprimatur.49 One way to see how this
dynamic played out in British India is to examine how colonial actors finessed their political
rhetoric to take advantage of the Raj’s principle of ‘non-interference’. As C.S. Adcock has
shown, Arya Samajis were especially adept at devising a ‘political semantics’ that manipulated
the Anglophone distinction between ‘religion’ and ‘politics’ to their advantage.50

Even the institution of the secret ballot, as David Gilmartin suggests, demonstrates how
the rational-critical public emerges in tandem with the state.51 As a theatrical space, the voting
booth helps stage a drama in which the sovereign individual exercises her critical judgment free
(at least apparently) from the external constraints of state and society. Far from preceding the
state, however, this atomised (or, in Elaine Hadley’s terms, ‘abstract’) individual is in fact the
product of an elaborate set of institutional procedures devised and guaranteed by the state.52 The
self-abstracted voter, we might say, lives a ‘double life’. As Karl Marx argues in ‘On the Jewish
Question’, the modern person ‘lives in the political community, where he regards himself as a
communal being, and in civil society, where he is active as a private individual’. He is split down
the middle, both bourgeois (a private economic actor) and citoyen (an abstract public being).53
For Marx, the attendant self-alienation renders politics fundamentally akin to religion: both entail
‘man’s’ living simultaneously in heaven (i.e. through the medium of God or state) and on earth.
The contradiction between these two terms (bourgeois and citoyen) underpins Habermas’

Press, 2007); and Winnifred Fallers Sullivan and Robert Yelle (eds), *After Secular Law* (Stanford:
51 David Gilmartin, ‘Towards a Global History of Voting: Sovereignty, the Diffusion of Ideas, and the
52 Elaine Hadley, *Living Liberalism: Practical Citizenship in Mid-Victorian Britain* (Chicago: University
53 Karl Marx, ‘On the Jewish Question’, in Rodney Livingstone and Gregor Benton (trans.), *Early
account of the rise and fall of the Western European public sphere. And, as Skaria suggests here, by reading ‘On the Jewish Question’ alongside Ambedkar’s writings on Buddhism, it also sheds light on the place of ‘the public’ in modern India.

Gilmartin gives us a strong argument as to why this should be the case in his article here. Notions of ‘the public’ and ‘the people’ exist simultaneously in heaven and on earth. They conjure visions of a grandly unified entity that is the transcendent ground of state legitimation; at the same time, they also denote an empirical object that is defined by its heterogeneity, its ability to encompass multiple distinct voices vying for political precedence. As Gilmartin explains, the modern public, precisely in its ‘double life’, inherits and reshapes the more venerable problem of the ‘king’s two bodies’: medieval and early modern political theology ‘hinged on a distinction between legitimation, that is, a claim to authority transcending the everyday, and governance, the mundane process of actually managing and bringing order to society’. In slightly different terms, one might describe this as the distinction between the king’s transcendent ‘glory’ and his immanent managerial power. With the transition to modern democratic politics, this distinction was not eliminated; rather, a new set of abstract entities (‘reason’, ‘the people’) came to occupy the position of the king’s spiritual body, granting the state its legitimacy by seeming to stand outside of and prior to the domain of governance. Gilmartin’s great intervention here is to suggest that, if we want to transpose this narrative to India, we need to push Ernst Kantorowicz’s Christian kings onto transnational terrain (which, historically speaking, was surely their natural habitat). Drawing on recent work by Azfar Moin and Mithi Mukherjee, Gilmartin poses a series

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56 Of course, as several scholars have argued, ‘the people’ is only performatively constituted as such via documents like the U.S. Declaration of Independence, which are often explicitly linked to the state. See, for example, Jason Frank, *Constituent Moments: Enacting the People in Postrevolutionary America* (Durham: Duke University Press, 2010).
of highly suggestive questions. How, for example, might the ritual vocabulary of Mughal–Safavid sovereignty that lingered on into the nineteenth century have overlapped with the ritual vocabulary of the British Raj? Did ritual enactments of ‘the people’ vary between regions, inflected by culturally variable understandings of the sacred sovereign? Finally, how did the Raj’s own internal distinction between ‘imperial’ and ‘colonial’ power inflect the political constitution of ‘the people’ in South Asia?

One point of entry into these questions is the debates around the caliphate and Islamic law that preoccupied Muslim reformers and others during the 1910s and 1920s. As SherAli Tareen suggests here, Abul Kalam Azad sought to anchor Indian Muslim identity in the symbol of the sovereign caliph, whereas Ahmad Raza Khan sought to relocate the basis of community to the ‘practice of everyday life’, thus opening the everyday to new forms of moral regulation. Similarly, we see in Ingram’s article how nineteenth-century Islamic legal critiques of ‘custom’ conceived of certain everyday life habits as constituting a ‘counter-normativity’ that ‘impinged on the normativity of the Qur’an and sunna’ by forming its ‘own faux-Shari’a’, a nomos or law to rival that of official tradition. How to read this intensified regulation of daily life remains something of an open question. But one could suggest that it was precisely the shift to using the ‘masses’ (‘awamm) as a symbol of political legitimacy that made these masses’ mundane behaviour into a public or political problem.

A different point of entry is suggested by the legal regulation of ‘the public’ in the post-colonial period. Here too we see the conceptual gap between ‘the public’ as a general or transcendent entity and as an empirical object. As Mazzarella suggests in his discussion of the 2005 Mumbai dance bar ban, the legal statutes that define obscenity as causing ‘annoyance’ to the public entail a key ambiguity. Which ‘public’ are we talking about? The group of people who
happen to be in attendance at an allegedly obscene performance? Or some representative sampling of ‘the people’ as a whole? A different version of this problem is to be found in the 2007 Mishra Commission, as discussed by Viswanath. Here, we see how the state uses commissions to represent ‘the public’ in both its bodies. The commission ‘represents representation’; that is, it does the ‘performative work of representing the people as a whole and of suturing antagonistic divisions’.\(^{57}\) But it also documents the empirical variation of the people by demanding the production of social scientific knowledge about oppressed groups. Here, a ‘representational logic’ familiar from the scholarship on colonial ethnology continues to operate in a ‘formal democracy’. The commission blurs the line between these two types of public, converting social scientific fact into a symbol of state legitimacy. It is empirical variation and not transcendent unity that provides the symbolic ground of state power, precisely through its veneer of completeness.

In yet a different vein, we might ask how Ambedkar’s effort, according to Skaria, to ‘formulate Buddhism as a religion after secularism’, intervened in the Schmittian problematic of political theology. If part of the problem with the secular ‘public’ as the basis of legitimation for the modern state is the way in which it lays claim to an impossible position of generality or universality that effaces the minority, then Ambedkar’s response is to ‘search for another universalism’ based on a principle of ‘unruly spectrality’. He uses religion, Skaria argues, to recuperate a notion of the politically ‘minor’, of ‘participation without a part, without sovereignty’.

Finally, we should ask how the print public fashioned itself, on the model of the court, as an institution wherein ‘the people’ can engage in the quintessentially sovereign act of

\(^{57}\) The language here is taken from the version of this essay presented on 18 May 2014 as part of the Northwestern University workshop ‘Imagining the Public in Colonial India’.
imaginatively ‘standing back from, and rendering independent judgment on, the political and social world’ (Gilmartin, this volume). Insofar as it models itself on courts, ‘the public’ cannot be said to exist prior to the state. Rather, it emerges in tandem with the state, as an institution of modern governance. The affinity between court and press was on vivid display during the 1862 Maharaj Libel Case, during which judges and reformers aligned against what they perceived as a shared enemy: traditional religion. As Scott shows here, the affinity between press and court structured the rhetoric of ‘exposure’ that dominated the affair. One should be careful, however, to clarify that reformers like Karsandas Mulji were not characteristic of the print public as a whole. Many purveyors of print media explicitly aligned themselves with the sort of religious tradition that Mulji had maligned. Indeed, as Francesca Orsini shows here, ‘old texts’ were at least as important as new ones in defining the contours of the colonial public sphere. Whatever theoretical account we might want to give of the ‘sovereign public’ thus needs to consider how bhakti lives on into the modern period as a key means of thinking the relationship between self and society.

To bring the 1991 and 2015 special issues together is to showcase the diversity of possible approaches to the study of South Asian ‘publics’. It is also to suggest promising areas for future research. As Freitag notes in her ‘Postscript’, even while bringing needed attention to topics like law and religion, the present collection places relatively less emphasis on the popular and performative aspects of public culture in South Asia. This is a significant omission, given the continued vibrancy of the ‘visual turn’ in South Asian studies, as well as the importance of visual culture to the history of legal concepts like the ‘public good’ and ‘public obscenity’. Both here and in her other recent work, Freitag reviews a number of ways in which visual sources can
broaden and enrich the study of publics, as of South Asian history more generally. It is a fitting way to conclude the current collection—gesturing toward the necessary incompletion and open-endedness of any inquiry into how the category of ‘the public’ functions in modern culture.

What is a public? This is a question that has to remain unanswered. Our aim here has simply been to outline a range of approaches to it in order to open a ‘zone of debate’. We hope, in somewhat circular fashion, that this question can convene its own public, however fleeting or provisional, so that as scholars we might better appreciate the range of voices both within and beyond South Asia that have joined together to fashion this central term of modern thought.

\footnote{See especially the essays in Sandria B. Freitag (ed.), ‘The Visual Turn in South Asian Studies’, special issue of \textit{South Asia: Journal of South Asian Studies}, Vol. XXXVII, no. 3 (Sept. 2014).}