



Review

Empowerment of minority in India

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Accepted 03 May, 2012

Recognition and protection of minority rights under a legal framework has two fold objectives –firstly to prevent state from being oppressive against the minorities as in a democratic setup government is run by majority, secondly to provide the minority a protective zone whereby they can preserve their separate identity while contributing in national development and progress. This Article analyses the concept of minority and minority rights in India. It also seeks to highlights the historical perspective of Minority as well as the provisions of National Commission on Minority. Some suggestions have been given for the empowerment of the Minority in Indian context.

Keywords: Minority, Citizens, Indians, Society

INTRODUCTION

The term *minority group* and its opposite, *majority group*, have been widely used both among social scientists and the general public in recent decades. In social scientific (and often popular) use of these terms, they do not usually refer per se to a numerical minority or majority. Rather, the social-scientific meaning of a minority group is a group that is assigned an inferior status in society, one that enjoys less than its proportionate share of scarce resources. Frequently, minority group members are discriminated against, and in some cases they are severely and systematically exploited for economic gain by the majority group. Usually, a minority group is defined on the basis of a relatively permanent and unchanging status and on the basis of being different—often visibly—from the majority group. This definition includes minorities based on ascribed statuses such as race, ethnicity, and gender and other statuses that are difficult or impossible to change, such as sexual orientation and disability. It also includes groups with common identities that are deeply held and relatively unlikely to change, most commonly religious or linguistic groups. When minority status is assigned on the basis of race or ethnicity, it often involves groups that have been conquered or colonized in the past, as is the case, in the United States, of African-Americans,

Mexican-Americans and Puerto Ricans, and American Indians. In these instances, the degree of subordination experienced by the groups tends to be particularly intense. It is notable, for example, that the present and historic status of the four aforementioned groups is significantly more disadvantaged than that of most immigrant groups in the United States. For all types of minority groups, it is typically true that (1) the group is different in some way that is regarded as socially significant from those who hold the dominant influence in society, and (2) on the basis of that difference the group is assigned to a subordinate or disadvantaged status.

Concept of Minority

The minorities can be defined as the groups that are held together by ties of common descent, language, or religious faith, and feel themselves different from other dominant groups within a political entity. The United Nations Sub-Committee on Prevention of Discrimination and Protection of Minorities and Minority Rights in India: An Introduction Minorities defines the word minority as “only those non-dominant groups in a population, which possess and wish to preserve stable ethnic, religious or

linguistic traditions or characteristics markedly different from those of the rest of the population.” Francisco Capotorti, in his UN Sub-Commission’s study of 1977, defined minorities as “a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members being nationals of the state possess, ethnic, religious or linguistic characteristics differing from those of the rest of the population and show if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.” And, in subsequent formulations for the Sub-Commission in 1985, J. Deschenes defined minority as “a group of citizens of a state, constituting numerical minority and in a non-dominant position in that state, endured with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly by a collective will to survive and whose aims to achieve equality with the majority in fact and in law”.

In the light of the above definitions we can find three basic aspects of any minority status; numerical inferiority, non-dominant status, and stable features of distinctive identity. While the empowerment of a minority, especially of religious, linguistic and cultural minorities, to prepare desirable features of their identity should be a necessary part of any scheme of protection of minorities, the choice should wholly rest with the minority to adjust and change those identity features partly or wholly for reasons of its modernization and voluntary integration with the national and global mainstream. Encyclopaedia Britannica defines minorities as “aggregate of people who are distinct in race, religion, language, or nationality from other members of the society which they live and who think of themselves, and who is thought of by others as being separate and distinct.” Separation, too, often implies that the members of such a minority are excluded from taking a full share in the life of the society because they differ in certain ways from the dominant group- a situation that tends to develop attitudes of discrimination and prejudice towards the minority in question, attitudes that may also be assumed by other groups or minorities in the society. The minority itself is likely to respond with strong attitudes of group loyalty and to develop forms of behavior that, by design or not, help to segregate its members still further from the rest of the society. The sociological employment of the word ‘minority’ largely agrees with common usage in denoting a distinct, separate group of people who are different in certain easily recognized aspects from the majority. But the term ‘minority group’ implies rather more; for to a sociologist a social group of any kind is an aggregate of people with defined aims and rules of behavior and a sub-culture that publicly mark it off from the rest of the society. It is the use of particular forms of cultural behavior, used as criteria or emblems that mark off a minority group from other types of groups. The word minority denotes by implication a part of a larger whole, but a minority group in the sociological sense is not

always a numerical minority of the population. In parts of southern states of the USA, blacks form a clear majority group in relation to the numerically smaller dominant groups of Whites. A similar situation existed in East African towns under the former colonial rule of the British. Under the British rule immigrants from India had settled in East Africa as traders and skilled artisans, most of them lived and worked in the towns, where they formed the overwhelming majority of the population, although, in East Africa as a whole the Indians numbered less than one percent of the total African population. Despite appearance in the towns, the Indians were clearly a minority group. In South Africa to take another example, the Bantu’s population, although many times more numerous than the dominant white group, were nevertheless considered as a minority group till the end of the apartheid regime. The treaties and declarations made under the auspicious of the League of Nations provided protection for racial, religious or linguistic minorities but in practice these words were found to be imperfectly descriptive of the groups whose protection was intended. Some sociologists have referred to minority groups of distinctive national and cultural characteristics, while others have given greater emphasis to the subjective elements of national consciousness which might characterize minorities not distinguished from the rest of the population by obvious features of language, dress, habits, or physique. Without some easily recognizable characteristics associated with stereotyped traits, by both the minority and the majority, a minority is likely to be rapidly absorbed and lose its identity. The term minority is usually applied to groups when such absorption is resisted by either the minority itself or the majority of the population. At the World Congress of Sociology held in Zurich, Switzerland in September 1950, Professor Louis Wirth of the University of Chicago emphasized the inferior status of minorities by defining them as “groups distinguished from the rest of society by racial or cultural characteristics which have become the object of differential and inferior treatment, and have developed a consciousness of their inferior status.”

Meaning of Minority under Indian Constitution

The Constitution of India neither defines the term minority nor provides details relating to the geographical and numerical specification of this concept though it talks about the rights of “minorities” under Article 29 and 30. However The U.N. Sub-Committee on Prevention of Discrimination and Protection of Minorities has defined minority as – “A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one

another, motivated, if only implicitly, by a collective will to survive and whose aim it is to achieve equality with the majority in fact and in law." As per the existing standard of human rights minority is a group which basically possess following characteristics –

- Its members experience discrimination, segregation, oppression, or persecution by a dominant group;
- It is characterized by physical or cultural, linguistic etc traits that distinguish from the dominant group;
- It is a self-conscious social group
- Membership in a minority is generally involuntary; and
- The members of a minority, by choice or necessity, typically marry within their own group.

In order to clear the constitutional stands about the concept of minority first attempt was made in Kerala Education Bill where Supreme Court held that the minority means a community, which is numerically less than 50 percent of the total population. However it does not give the exact picture of geographical extent within which the criteria of 50 per cent is to be determined. Later on in Guru Nanak University case, while rejecting the contention of the state of Punjab that a religious or linguistic minority should be determined in relation to the entire population of India, Supreme Court ruled that a minority has to be determined in relation to the particular legislation which is sought to be implemented. If it is a state law, the minorities have to be determined in relation to state the population. The court has pointed out if various sections and classes of Hindus were to be regarded as "minorities" under article 30(1), then the Hindus would be divided into numerous sections and classes and ceases to be majority any longer. The sections of one religion can not constitute religious minorities. The term "minority based on religion" should be restricted only to those religious minorities, e.g., Muslims, Christians, Jains, Buddhists, Sikhs, etc, which have kept their identity separate from majority, namely, the Hindus. In TMA Pai foundation case the eleven judges's bench of the Supreme Court confirmed the position that minority status of a community is to be decided with reference to the state population. Further the Supreme Court has ruled in S.K. Patro v. State of Bihar, that a minority claiming privilege under article 30 should be minority in person residing in India. Foreigners not residing in India do not fall within the scope of article.30.

Historical Development of Minority Rights in India

Recognition and protection of minority rights in India was hardly an issue prior to the starting of twentieth century because of the hegemony of majority over majority and ruling class minority's unwillingness to interfere within the

private, personal and religious matters of either group. All people had freedom to be governed by their religious and customary laws within their private affairs. The issue became relevant during early twentieth when Britishers gradually started power sharing with the Indian natives; and minorities especially Muslims led by Jinnah suspected their protection in the hands of majority Hindus. To address such fear Britishers along with certain princely states made special provisions for minority representation in legislature and government jobs. The Separate electorate system introduced by Britishers had two fold objectives – (1) to mobilize several communities especially of minorities in India to participate in power sharing; (2) to prevent the strong nationalism growing under the single umbrella of Congress. The separate electorate system whereas criticized by congress; minorities led by Jinnah welcomed this model. Dr.B.R. Ambedkar a dalit leader also started demanding for separate electorate system for dalits an oppressed category of Hindu society. However after an assurance given by congress and Mahatma Gandhi that in independent India special provisions shall be made for economic and social minorities he relinquished his demand of separate electorate for dalits.

Constitutional Assembly Stand on Minority Rights

Nation building is a dynamic process of integrating a plurality of social groups into a common framework of identity and loyalty in a political community. While convincing too few representatives in constituent assembly who had created a little disagreement about the need for pluralism and special provision of justice for minorities Dr. B.R. Ambedkar said: "To diehards who have developed a kind of fanaticism against minority protection I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the state. The history of Europe bears ample and appalling testimony to this fact. The other is that the minorities in India have agreed to place their existence in the hands of the majority. In the history of negotiations for preventing the partition of the Ireland, Redmond said to Carson "ask for any safeguard you like for the Protestant minority but let us have a United Ireland." Carson's reply was "Damn your safeguards, we don't want to be ruled by you." No minority in India has taken this stand. They have loyally accepted the rule of the majority, which is basically a communal majority and not a political majority. It is for the majority to realize its duty not to discriminate against minorities. Whether the minorities will continue or will vanish must depend upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish."

Similar view was also expressed by Govind Ballabh

Pant. With this objective the Constituent Assembly set up an Advisory Committee under the chairmanship of Sardar Patel on the subject of Fundamental Rights including rights of minorities, with the twin objectives of eliminating the chance of religion exploiting the State and vice-versa. The Advisory Committee appointed five sub-committees. One was the minorities sub-committee headed by H.C. Mukherjee a Christian leader from Bengal. Though Initially the Advisory Committee recommended, as a general rule, that seats for the different recognized minorities like Muslims, Scheduled Castes, Sikhs, Anglo Indians, Indian Christians, Parsis and tribas living in the plains of Assam should be reserved in different legislatures on the basis of their population; At a Later stage it rejected separate electorates of any kind, as in the past they had sharpened communal differences and led to the partition of the country.

The Sub-Committee Report on Minorities

This sub-committee after thorough analysis of present future aspect of minorities and country prepared an interim report which dealt with the question of Fundamental Rights from the point of view of minorities. The report recommended –

- All citizens are entitled to use their mother tongue and the script thereof, and to adopt study or use any other language and script of their choice.
- Minorities in every unit shall be adequately protected in respect of their language and culture, and no government may enact any laws or regulations that may act oppressively or prejudicially in this regard.
- No minority, whether of religion, community or language shall be deprived of its rights or discriminated against in regard to the admission into state educational institutions, nor shall any religious instruction be compulsorily imposed upon them.
- Notwithstanding any custom, law, decree or usage, presumption or terms of dedication, no Hindu on grounds of caste, birth or denomination shall be precluded from entering in educational institutions dedicated or intended for the use of the Hindu community or any action thereof, and
- No disqualification shall arise on account of sex in respect of public services or professions or admission to educational institutions saves and except that this shall not prevent the establishment of separate educational institutions for boys and girls.

The Advisory Committee accepted the recommendations partially and recommended the following clause to the Constituent Assembly:

- Minorities in every unit shall be protected in respect of their language, script and culture, and no laws or, regulations may be enacted that may operate oppressively or prejudicially in this respect.

- No minority whether based on religion, community or language shall be discriminated against with' regard to admission into state educational institutions, nor shall any religious instruction be compulsorily imposed on such minority.

- All minorities whether based on religion, community or language shall be free in any unit to establish and administer educational institutions of their choice.

- The State shall not, while providing state aid to schools, discriminate against schools under the management of minorities whether based on religion, community, or language.

The clause was incorporated as clause 24 with some drafting changes in the Draft Constitution prepared by the Constitutional Advisor. The Drafting Committee revised the text of clause 24 twice, the most significant change being the re-drafting of sub-clause (1). The clause finally took the shape as Article 23 of the Draft Constitution. The Drafting Committee, at the revision stage divided Article 23 into two separate Articles - Article 29 and 30 as now contained in the existing constitution. However other kind of language related issues were given the constitutional rights rather than fundamental rights. Thus except for a few concessions which the Assembly admitted for the Anglo-Indian community no other religious minority could secure any political rights. The concession to Anglo-Indians, as finally incorporated in the Constitution, comprised of provisions authorizing the President to nominate not more than two members of the Anglo-Indian community to the House of the People if in his opinion that community happened to be inadequately represented (Art. 331). A similar provision was made for nomination in the State Legislative Assemblies (Art. 333). Both the provisions were to remain in force for a period of 30 years only (Art. 334), a provision for reservation in railways, customs and postal and telegraph services for ten years, the reservations being on the same basis on which they were made before 1947 (Art. 336). A special provision for continuance of special educational grants for a period of ten years which were available to that community in 1948 (Art. 337). Due to the partition of country there was a strong feeling against the communal forces and hence no attempt was made on any occasion even to define the term "minority" in precise words. The feeling was so strong that the words "certain classes" were substituted for the word "minorities" wherever it occurred in the text of the Constitution. Not only is the use of the term minority in the Constitution very rare but also no group is mentioned explicitly as a minority therein. The term 'minority' is mentioned in only two Articles, 29 and 30. Here too the use of the term is not for definitional purposes. In one of the Articles it is used only in the sub-heading of the Article and not in the text of the Article. More so Article 366 of the Constitution, which is exclusively utilized to give the meaning of words and terms used in the text of the Constitution gives meaning

to 30 such expressions. But here too the term “minority” is not covered. This attitude of the founding fathers with regard to “minority” term shows that they had grown allergic to the use of the term in the Constitution.

National Commission for Minority

In order to preserve the country’s secular traditions, to promote national integration and to remove any feeling of inequality and discrimination amongst minorities, the Government of India constituted a Minorities’ Commission in 1978 through administrative order which was later on regularized by ‘The National Commission for Minorities Act, 1992.’ The Commission discharges the following’ functions under Section 9 of the Act

- evaluate the progress of the development of minorities;
- monitor the working of the safeguards provided in the Constitution and other enactments;
- make recommendations to appropriate government for the effective protection of the interests of minorities;
- look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities;
- cause studies into problems arising out of any discrimination against minorities and recommend measures for their removal;
- conduct studies and researched analysis on the issues relating to socio-economic and educational development of minorities;
- suggest appropriate measures in respect of any minority to be under taken by the Appropriate government;
- make periodical or special reports to the Central Government on any matter relating to minorities and in particular difficulties faced by them; and
- any other matter which may be referred to it by the Central Government

As a nation’s conscience keeper, a glimpse of the voluminous annual reports submitted by the Minorities Commission reflects that it has done a great job in collection of data, sensitization, and prompt interference and in giving suitable suggestions. Besides it recently in the year 2005, the Parliament has also enacted the National Commission for Minority Educational Institutions Act for providing additional safeguards to the minority educational institutions.

CONCLUSIONS AND SUGGESTIONS

Despite of some ups and downs recent celebration of 64th Independence Day in accordance with the settled democratic principles itself marks that multi-religious,

multi-cultural, multi-lingual, and multi-racial Indian society, has been interwoven into an innate unity by the common thread of national integration where aspirations of minorities as well as those of majorities have been successfully achieved by adopting several constitutional, legal and progressive administrative policies.

It is amply clear that various issues related to minorities have started putting pressure on the policy formulation and implementation by the government. Also, the dominant heterogeneous groups are quite fragmented and that government policy cannot be faulted for working to further the interests of any particular group as such. However, there are substantial difficulties; these include problems with the implementation of policies currently dealing with property rights and interests and the restructuring of rights of religious minorities. The plurality existing within the political framework and the pressures generated by the polity is now seeing a continuous process of social churning affecting the position of minority groups.

Though the government has taken many steps and measures for the upliftment of Dalits and to bring them to the mainstream, these steps fall short due to lack of political will and very less awareness or lack of it among the people about the scheme. There is a-state driven-transfer of economic power that is slowly taking shape from the urban, westernized, educated upper-castes to the rural masses and intermediary castes. This has been manifest in various densely-populated states across the country like Bihar, Uttar Pradesh, Jharkhand, Chattisgarh, Tamil Nadu and West Bengal. The politics of this newly emerging constituent class has re-defined Indian politics since 1991 after the implementation of the Mandal Commission Report (1990). In its report of 1980, the Commission endorsed the affirmative action policies existing in Indian law whereby lower castes (also known as Other Backward Classes and Scheduled Castes and Tribes) were provided with exclusive access to a certain proportion in higher education and governmental jobs and recommend changes to the quota system by increasing these to 49.5 per cent (a rise of 27 per cent).

However over the years the increasing majoritarianism and minoritarianism in Indian society as reflected in several communal violence and violent separatist or autonomy movement based on religion language ethnicity has divided the nation and affected the welfare and development of the society to a greater extent. Absence of a clear concept of minority under constitution has given ample chances for the orthodox people and judiciary to narrow down its broader concept and limiting it only up to the religious and linguistic minorities while excluding several other minorities like minorities based on economic, political, sexual vulnerabilities. Further even the condition of religious and linguistic minorities has not improved despite of their expressed recognition under the constitution as clearly reflected in recent Sachar Committee report and several other reports of the

minority commission. They are still vulnerable and have a very limited sharing in community development. Regarding linguistic minorities several ancient languages has either extinguished are about to be extinguished due to the lack of government patronage which is more favorable to only languages recognized under VIIIth schedule of the constitution. On ground of above observation some of the suggestions has been given below-

- Concept of minority should be broadened by specific provisions in the constitution to include sexual, aged, migrants, disabled, and other several minorities.

- Unfortunately still we have no clear concept of secularism; it should be more specifically defined as secularism has become the mother of communalism. The various communal organizations relating to any community should be banned.

- A balanced development of all communities must be ensured. Under present model of development tribals have become sacrificial lambs who though form only 8% of population are 50% victim of development induced displacement.

- The growing regional disparity must be curbed by establishing separate fund for weaker and poor states and minorities living therein.

- Several valuable suggestions of Sachar Committee recommendation must be complied so far as they are compatible with the constitution.

- Provisions should be made to ensure unbiased proper review of several laws relating to the protection of minorities.

- Election commission must be given more powers to adjudicate and provide prompt decision as to whether a speech is communal or not.

- Leaders of communal antecedent should be barred from contesting elections.

- A separate commission for promotion and protection of extinguishing languages should be established.

- The progress of minority is possible only if India's state, local and Central Governments come forward with bold new proposals to correct the glaring deficiencies pointed out by like the Sachar Committee Report.

- In nutshell government must take the concept of minority in holistic way while formulating its policies and more positive steps should be taken to protect the minority's rights.

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