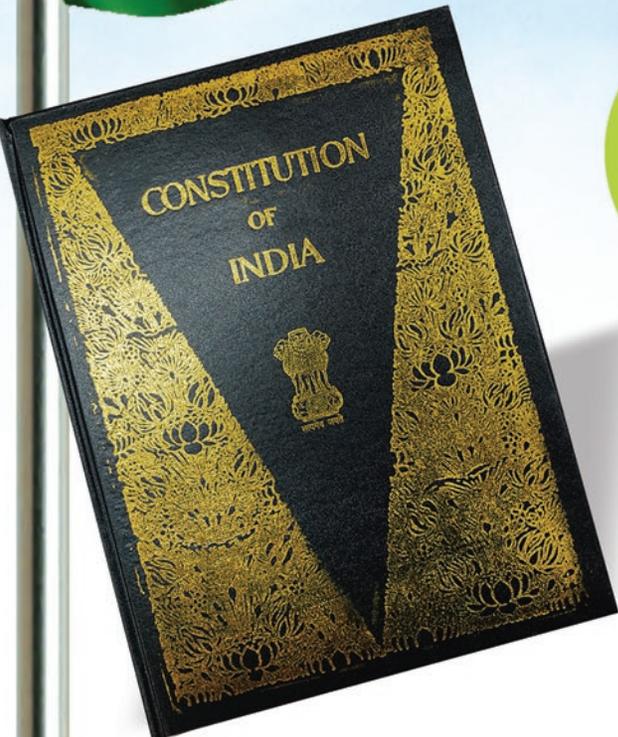


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Minorities Special



75
आज़ादी का
अमृत महोत्सव



विकास व खुशहाली का पर्याय हिमाचल प्रदेश

“हिमाचल प्रदेश और देश के युवाओं के सपनों और आकांक्षाओं में ही समृद्धि की नई संभावनाएं और राष्ट्र की प्रगति की नई ऊंचाईयां समाहित हैं। देश के हर क्षेत्र, हर नागरिक के आत्मविश्वास को जगाने के लिए विकास और सुधारों का सिलसिला लगातार चलता रहेगा।”

नरेन्द्र मोदी, प्रधानमंत्री

**प्रधानमंत्री
उज्ज्वला योजना**
1.36 लाख परिवारों
को निःशुल्क गैस कनेक्शन
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रुपये खर्च

आयुष्मान भारत
4.25 लाख परिवारों के गोल्डन
कार्ड बनाए गए, 1.22 लाख
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**प्रधानमंत्री गरीब
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कुल 1,26,825 मीट्रिक टन
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रुपये व्यय कर 29,51,191
लोग लाभान्वित

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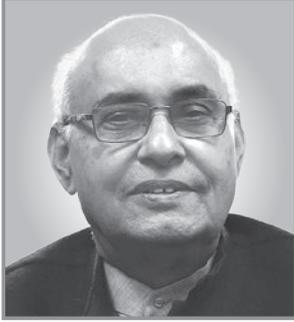
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Dr. Mahesh Chandra Sharma

Editorial

The “Gram Swarajya” special issue of *Manthan* published in the context of the 75th Anniversary of Independence, has obtained your apposite response, for which I accord many thanks.

The *Minorities Special* issue is currently in your hands, and we hope you shall find it useful. We are being forced to endure the ruins of colonialism. This idea of minorityism is the sordid contribution of the British to India and by the history and politics of the creation of artificial nation-states to Europe. The Balkan countries continue to be troubled by minorityism, while countries of the African continent too are suffering from it. Europe itself is not reconciled in this regard. In this, the example of France is instructive enough.

The framers of India’s Constitution wanted to solve this issue under the leadership of Sardar Vallabhbhai Patel and had indeed solved it to a considerable extent. But there has been a grotesque saga of appeasement in the country’s post-Independence politics, in which all political parties have had a role, following the lead of the Congress. It is minorityism that succeeded in waylaying our freedom movement, ultimately causing the country’s partition. It is this same minorityism that has once again become the chief reason for the polarisation of India’s politics. The beliefs of our national psyche have begun being abused as communal and the so-called Western model of secularism imposed on us is being touted as the yardstick of our national consensus. An entire generation has become a victim of such delusion. Muslims, who too are the children of Mother India, have been alienated. They are being forced to the bearers of a foreign and aggressive historicism. This is highly unfortunate.

This issue of *Manthan*, which examines the way this element of minorityism traverses through constitutional, legal, judicial and political labyrinths, is currently before us. We look forward to your suggestions and advice as always.

Shubham!

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Arif Mohammad Khan

Minorities Constitutional Provisions and Politics

India celebrates diversity as one of its salient features. Nevertheless, the minority-majority politics that started here during the British period continues till today. A Look at its relevance

After initiation of the Freedom Movement, British Government refused to give it any recognition for a long time. According to them, India was not a nation, and it was a group of different religions and sects. Here an individual or an association's right to represent their sect could be agreed upon, but their voice cannot be called as the voice of the nation.

In reality, after the failure of the revolt of 1857, the British rulers came to the conclusion after intense deliberation that the stability of their rule could be achieved only if India remained divided from within. This fact itself becomes clear from the comments of senior government officials in the different files of that time. In a file, for instance, the Secretary of State for India

George Hamilton¹ wrote in 1860 – “I don't know what point of view we should accept for matters related to the future of India. Unity between Indians in terms of thoughts and activities can be extremely dangerous. Differences and disputes between them will create administrative difficulties. However, the latter idea is more suitable for us, though our officers may have to face a lot of troubles.”

Once this decision was taken,

the colonial power made its policies and especially in the constitutional provisions made for India, it was ensured that the class consciousness of every religious and social group in India should be raised as much as possible so that one section of population could see benefits in the undermining of the other.

Due to this policy, the British rulers decided for constitutional reforms² in 1909 itself, in which they arranged for a separate election system, because of which the Indian Muslims were separated from the rest of the electorate or say that they had the special privilege of electing their political representatives separately by considering them as religious minorities. The British rulers kept saying that the differences among various sections of people are so deep in India that no national unity is possible and that is why foreigners have been ruling India for a long time.

As a response to such fallacious arguments, people associated with the national movement of India formed a committee³ on 26 May 1926 under the chairmanship of Pandit Motilal Nehru. The task of the committee was to prepare a draft constitution for India according reflecting the national aspirations so that it can be

demanding from the then rulers that the constitution prepared by Indians should be implemented in the country.

In the draft prepared by this committee after extensive deliberations, it was clearly declared that the "Separate Electorate System" implemented by the British was an attempt to divide the Indian society and weaken its national conscience. Therefore, this system could not be accepted. The committee also noted that the "separate electoral system" had led to new communal disputes which created tensions in the society, and it was harming our national life.

The committee also called the provision of giving more representation to Muslims in the central legislature under a "separate electoral system" as part of the conspiracy aimed at undermining their national unity by creating communal disharmony among Indians. In place of "separate election system", the committee proposed that seats should be reserved for Muslims on the basis of their population and provision allowing them to contest elections from ordinary seats for ten years, but this election should be done under a joint electoral system.

The committee's recommendations were generally welcomed⁴, but the Muslim League strongly opposed⁵ the removal of the 'separate electoral system'. In this context, in December 1928, a conference of all political parties was organized in Calcutta under the chairmanship of Dr. Mukhtar Ahmed Ansari. In his presidential speech, Dr. Ansari urged the Muslims to accept the recommendations of this committee openly and not to

weaken the national movement by opposing the recommendations of the committee.

Dr. Ansari, in his speech, among many other issues, quoted from the recommendations of a League of Nations committee which states that "the greatest guarantee of security of any minority is the goodwill of majority". He further argued that the welfare and prestige of the minority does not depend on how many special privileges they have got for themselves, but their status is determined by their patriotism and sense of collective social interest.

Dr. Ansari further said that such constitutional provisions which confer privileges on one section create inequality and tension in the society, and it amounts to "rewarding the unqualified." He further said that "liberal constitutional provisions like reservations and special provisions undermine the healthy spirit of competition of any class." As a result of this, the classes with such privileges would become weaker and then even those privileges could no longer be beneficial for them.

Dr. Ansari asserted that the separatist and communal psyche can never be satisfied. The more you go on accepting their demands, the more their demands will go on increasing. He categorically said that the real purpose of those who are creating difficulties in the way of national aspirations was to satisfy some of their vested interests by pleasing the foreign rulers, and hence, they were resorting to communalism.

Despite these strong arguments and impressive speeches by Dr. Ansari and other nationalist leaders, the communal forces

continued to oppose the Nehru Committee and strengthened the hands of the British so that they could say that there was no national consensus on the recommendations of the Nehru Committee and hence those could not be accepted.

After this, the British government continued to rule India based on the laws and administrative policies made by it, whose core was the belief that the constituent unit of India is not a citizen but a community. As a result, the group consciousness of separate religion, language and caste went on increasing among the Indians themselves. The Muslim League played an important role in making this colonial plan a success. The seeds of separatism that were sown in the middle of the nineteenth century came to the fore as a strong pillar within a hundred years, and by the 1940s, the separatists started demanding the partition of the country by creating a minority versus majority dispute on religious lines.

In the decade of 1940, India's national movement had to face two challenges openly. To liberate India from foreign rule on the one hand and on the other hand, to try to save India from the conspiracies of the Muslim League, an ally of the British, to break the country.

The Muslim League said that India was not a nation, but two nations lived here, which cannot live together after the departure of the British. They argued that there was not only a difference of faith between the two, but there was also a deep gulf between the two in terms of history and morality that could not be bridged. As such, the partition of India was necessary before the British left⁶.



On the other hand, the leaders of the Indian national movement said that it was true that there were diversities of faith, colour, caste and language in India, but it was India's special talent to create unity among these diversities. The history of Indian culture showed that we considered diversity as a normal quality of our nature and the meaning of culture is that unity should be established by establishing cooperation among diversity. We don't look at diversity as a concern, but we use it as a source of enriching our culture. Our sages had declared in the very early times of Indian civilization that truth is one, but there are many ways of seeing and describing it: *Ekam Sad Viprah Bahudha Vadanti*⁷.

Not only that, we have people who believe in all the religious traditions of the world, but there are many sects in the same tradition, especially in sanatana, there are many worship systems and there are different rituals and customs. This is the inclusive

tradition of India, highlighted by Swami Vivekananda, in Chicago's Parliament of Religions in 1893, where he said that due to India's tradition of tolerance and universal acceptance, it had given shelter to people from anywhere in the world whenever they were persecuted due to their religious beliefs and forced to leave their homes. India embraced them whether they were Jews of Central Asia or Parsis of Iran. Despite being in small numbers, they never felt any kind of insecurity in India regarding their faith, language and rituals.

Swamiiji in his speech gave a quote from *Shiva Mahimnastotram*:

***Rucinam vaicitrya drjukuṭila
nānāpatha juṣam|
Nirṇāmeko gamyastvamasi
payasā maraṇava iva||***

It means that just as different rivers come out of different sources and join the ocean,

similarly, people of different nature, going through different simple and complex ways finally come and meet with the Lord. Swamiiji also quoted a verse from Bhagavad Gita to highlight this feature of Indian civilization:

***Ye yathā mā prapadyante
tānstathaiva bhajāmyaham|
Mama vatmānurvataste
manuṣyāḥ pārtha sarvaśaḥ||***⁸

Here, the Lord assures us that whosoever comes towards me – whatever may be the way, I receive him. People try through different paths and in the end come towards me.

Similarly, if we look at the history of Muslims, we will find that 48 years after the death of the Prophet himself, when the people of the state established by himself started doing atrocities on the people of his own family, then Imam Hussain, as a solution to the conflict, proposed that he should be allowed to go to India. Imam Hussain was not allowed to go

and he and 72 of his companions were killed in the field of Karbala. But when this series of atrocities against the family and their loyalists continued, they continued to migrate to India⁹.

Muslims have been living in India for almost a thousand years, they are aware of this eternal tradition of India, but the leadership of the Muslim League refused to see all this and started their movement demanding the creation of Pakistan by partitioning the country. It is surprising that both Allama Iqbal¹⁰ and Muhammad Ali Jinnah¹¹, who is considered the ideological and practical father of Pakistan, were Muslims of Indian origin whose grandfather and father had converted to Islam at an early age. Both were believers of nationalist and patriotic ideas in their early life. Both are counted among such people who had a sense of history and civilization. But it seems that later both got so involved in the stream of religious separatism that they not only denied their own heritage but also instigated religious sentiments in such a way that even today the country they built could not control that religious hysteria.

It would be pertinent here to see whether the concept of minority and majority given by the colonial rulers and the Muslim League was relevant in the cultural context of India. We find a detailed answer to this question in Maulana Azad's presidential address¹² at the Congress session (March 1940), in which he said:

“Nothing has been considered more wrong in the political discourse in India that the idea that the status of the Muslims of India is that of a political minority and that is why they should have

apprehensions about exercising their rights and freedom in a democratic India. This one conceptual mistake opened the door to many misunderstandings. More epitaphs were built on that wrong foundation. This misconception, on the one hand, made the Muslims themselves doubtful about their real status, and on the other hand, confused the rest of the world that they could not see India in its true nature. I would have told you, but for the paucity of time, that why such wrong and fabricated interpretation of the issues were created and by whom. In fact, it is the outcome of the same “divide and rule” policy that was adopted by the government after the launching of the freedom struggle by the Indian National Congress. The objective of such a policy was to use the Muslims against that new political consciousness. Two things were specially instigated under that policy. One is that there are two dissimilar nations in India, a Hindu nation and a Muslim nation. That is why no demand for a *muttahida qaumiyat* (one nation) could possibly be made here. Secondly, the number of Muslims is very less in comparison to the Hindus, so the inevitable result of the establishment of democratic institutions would obviously mean the rule of Hindu majority and the Muslims will be in danger. Let me tell you this much that if you want to know the early history of this issue, then you must look towards the times of a former Viceroy Lord Dufferin and a former Lieutenant Governor of the United Provinces of Sir Auckland Calvin. In political parlance, whenever the word minority is spoken, it does

not mean that mathematically a group of people is lesser in count than the other. Rather, it is aimed at such a weak group that, both in terms of numbers and capabilities, is unable to support or defend itself while coexisting with a large and powerful group. Now look at what is the real reality of Muslims in India from this point of view. In one glance you can see that it is such a large group of people who are so strong in number and spread across the land that even thinking that they have any weaknesses of a minority community is to disbelieve your own eyes.”

Not only in Ramgarh, but Maulana Azad continued to explain this concept of the ‘minority’ to the Muslims with full sympathy and fellow feeling. But, according to Professor Rasheed Ahmed Siddiqui, the Muslims did not leave any filthy and vulgar abuse of Urdu language, which they did not use for Maulana. If Jinnah called Maulana Azad a ‘show boy’ (mask), then Urdu newspapers constantly addressed Maulana as ‘Muslim President of Hindu Congress’¹³.

The antagonism faced by Maulana Azad from Muslims is reflected in his speech which he gave outside Jama Masjid in Delhi in October 1947 after Partition. In that speech, Maulana said: “Do you remember when I called you, you cut off my tongue. I picked up the pen, you cut my hands. I wanted to walk, you cut off my feet. I wanted to turn, so you broke my back. During the last seven years of the bitter politics, which has given you a painful separation, I warned you even its peak about its impending dangers, but you have not only ignored me continuously, rather,

you rejoiced in constant refusal and denial”¹⁴.

India was divided due to this politics of the minorityism, but the partition mentality is such a disease that once afflicted, it is almost impossible to get rid of it. Pakistan itself was divided within twenty-five years of the partition of India and the unique feature of the second partition was that it was Bengalis who were in majority but still asserted that they could not live with West Pakistan.

The ghost of this politics of colonial rulers and the Muslim League politics did not leave us even after independence. Our Constituent Assembly rejected the principle of political representation in the name of minority, but in the process of

accepting cultural, religious, and linguistic rights, the word minority was used¹⁵. As result of this even today people of old Muslim League mindset try to promote communal and separatist politics by taking the name of these constitutional provisions.

One of our constitutional experts says that even if all the fundamental rights are contained in Chapter 3 of the Constitution are not there, all these rights could have been ensured based on the Preamble of the Constitution. I have already said that the preservation and promotion of diversity in India has been going on since time immemorial, but perhaps it would have been better if more caution had been exercised in the use of different terminologies in this context

while keeping in mind the historical contexts.

The words minority and majority are not important in the context of India because Indian culture is not defined by race, language, or religious belief but by spirit. The essence of this culture is that God resides in everyone in the form of a soul. So, this culture not only prohibits any kind of discrimination based on faith, language, race, or caste, but considers it necessary that every human being is treated equally with because of the inherent divine element in the human being.

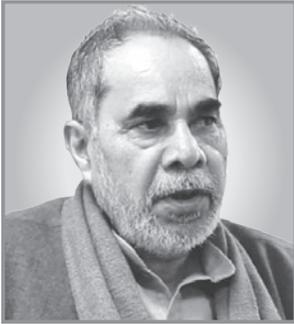
*Pāṣaṇḍa naigam śrenī
pūgavrāta guṇādīśu|
Samrakṣetsamayam rājā
janapade tathā||*¹⁶

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- Indian Councils Act of 1909
- The Nehru Report of 15 August 1928 (approved on 28 August) was a memorandum to appeal for a new dominion status and a federal set-up of government for the Constitution of India. The Committee was given the brief ‘to consider and determine the principles of the Constitution of India along with the problem of communalism and issue of dominion status.’
- The Muslim League, which was part of the All Parties Conference, rejected the Report primarily because of the absence of separate electorates for Muslims. See: https://www.constitutionofindia.net/historical-constitutions/nehru_report__motilal_nehru_1928__1st%20January%201928
- Conflict in Indian Society* by V.D. Kulkarni, Bhartiya Vidya Bhavan
- All India Muslim League session at Lahore passed a resolution that rejected scheme of Federation embodied in the Government of India Act, 1935 as totally unsuited to, and unworkable in the peculiar conditions of this country and altogether unacceptable to Muslim India.
See: <https://historypak.com/lahore-resolution-1940/>
- Rigveda* 164.46
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- The Herbert Feldman Omnibus*, p. 440 gives details about Iqbal's ancestors, who were Sapru Brahmins and Jinnah's ancestors who were Hindus of trading caste.
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- Maulana Azad* by Shorish Kashmiri, Chattan Publications, Lahore, p. 217
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*Pāṣaṇḍa naigam śrenī
pūgavrāta guṇādīśu|
Samrakṣetsamayam rājā
janapade tathā||*

A king must protect everyone in the same way, whether one believes in the Vedas or not.



Ram Bahadur Rai

The Maze of the Minority Factor

The biggest problem with the constitutional system regarding minorities is that it is not clearly defined. What are the discrepancies due to this and why is it important, an analysis

The story of Protection of Civil Rights in the Indian Constitution is very interesting. It can be seen through the window of the processes and the political circumstances of the making of the constitution. The History and the Geography did change then, and they have changed so much after Independence that it is difficult to even recognize them. The question that arises out of this change is that whether the point of view of the constitution makers has been understood in totality or not? This question is to the political leadership in power. It also requires a clarification. By Political Leadership it is especially meant here the political leadership in power up to the general elections of 2014. This has several dimensions in history. In order to realize their colonial interests the British converted India's plurality and diversity into differences. They built the foundations of discrimination. This is one dimension. To attain Independence from the British, during the freedom struggle, the promises which the Congress made brings out the second dimension. The division into Majority and Minority is the third dimension. In these, the perspective can be seen which clarifies the relation between the Deed and the Reason. The deed

means future. Reason opens the page of the past. The present binds the two. Let us begin with the past.

During the Freedom Struggle, the Congress always talked about Constitutional Reforms. The Nehru Committee's report guarantees 'Total Cultural Autonomy'. The report clarifies that without it a Harmonious State cannot be formed. This promise was in the wake of the demands of the Muslim League. The truth is that until 1930, the Congress was itself not clear what would be its Socio-economic and Cultural programs. But the Karachi Congress not only repeated the demand for Total Autonomy, it also accepted the principles of adult franchise, education, development, social-economic justice and equality between individuals and groups. After the failure of the Cripps mission, the Tej Bahadur Sapru Committee was formed for constitutional agreements. Its report came out in December 1945. The Sapru Committee did not accept the partition of India. It presented the concept of a loose Union. Actually, the Sapru Committee just concocted a constitutional chemical compound by mixing the recommendations of the Nehru Committee and the proposals of Reynold Kupland and the Cripps proposals. Actually the objective of the Sapru Committee

was to look for a constitutional-political response to sinister moves of the British and the partition related challenges posed by the Muslim League.

During the same era, there is a long history of global developments related to this subject, which is related to the subject of the minorities after the First World War. Those incidents had a big impact on the making of the constitution. We shall talk about it in the essay later. Here it is necessary to mention that when the time came to draft the constitution, the Constituent Assembly decided to draft a Charter of Rights first. This emerged out of the thought process which was related to the contemporary and past challenges. After going through a process the Charter of Rights got prepared which included broad rights, based on India's diversity, and which were inspired by the Freedom Struggle and the promises made during it. The Civil Rights and the Rights of Groups have been incorporated in this charter.

The sub-committee for Minority Rights was formed on 27 February, 1947. It was constituted by the Advisory Committee. It was constituted under the Cabinet Mission Plan. This sub-committee met on the same day. Thereafter, there were two meetings of the sub-committee in April and July in which the Muslim League remained absent. The task of the sub-committee was difficult. In its first meeting C. Rajagopalachari opined that deliberations should take place on political minorities. But, there was no consensus on his suggestion. The sub-committee adopted the Questionnaire framed by K.M. Munshi. The questionnaire had six questions. This was the first stage of deliberations on minority rights. At that time, there was discord in the Constituent Assembly. The Constituent Assembly was working under the Cabinet Mission Plan. The second round started after 3 June, 1947. There were two big questions before the Congress. First was to let the

minorities assimilate in India and to promise them constitutional provisions. Second was that the Congress wanted to maintain its basic claim that it represented entire India which included the minorities.

The Constituent Assembly faced a fundamental question with regard to minority affairs. It was that whether it was possible to resolve the social-religious issues with state intervention? These problems are like a potter's wheel where the wheel keeps rotating but the central pin remains at the same place. The minorities question is like that pin only around which the wheel is rotating. What will be formed on the wheel is decided by the potter in whose hands lies the mound of clay. If the problem in front of the Constituent Assembly would have been this only, it would have been resolved as the clay mound was in the hands of the members of the Advisory Committee for Minorities and its sub-committee. They could have created a statue of harmony and nationalism on the potter's wheel. Their efforts were in this direction only. But the potter's wheel which the Constituent Assembly had did not have a fixed pin. It is not fixed even today. There are reasons behind this. The reason is that minorities are not only those who can be put into a category. Due to the sinister policy of the British rule the minorities are broadly divided into two groups. In one group there are those who could be characterized as the Abrahamic category. These comprise of the Christians, Muslims and the Jews. In the second group there



are communities of the Hindu society who were formed and developed due to the religious revolutions under social reforms. It comprised mainly the Sikhs and the Buddhists then. Now, the Jains have also entered this category. By the Supreme Court's definition, these are all Hindus. The Rights Committee of the Constituent Assembly had to protect those communities too which belong to the broader Hindu Society but due to caste and creed had been sidelined. In this category come the Scheduled Castes and the Scheduled Tribes.

The atmosphere of the Constituent Assembly changed from 3 June, 1947. Where its hands were tied earlier, when it was under restrictions of the British Cabinet Mission Plan, in the new circumstances the Assembly became its own owner. Now, it could take its decisions independently. Technically, after Independence, the Constituent Assembly became sovereign. But, the dark shadow of colonialism remained clouded over it. What the constitution makers wanted to do by their free will, was the greater goal of rebuilding the democratic structure. They wanted to build a new society upon the principle of social equality. The huge question before them was how to find a way to save the constitution from the sinister moves of the British imperialists. The seed of dispute actually is in the definition of the word 'Hindu' in the colonial thinking. 'Hindu' is a geo-cultural concept. The essence of national harmony is imbibed in it. The day, to cater to the interests of colonialism,

It is difficult to understand the Minorities problem in its totality without knowing the history of the constitutional legacy which the British passed on to the Constituent Assembly. That constitutional legacy relates to the later part of the nineteenth century. To put it in exact words, after the First War of Independence, the British started looking at Indian society as a group of odd divisions; someone is Upper and someone is Lower

the word 'Hindu' was dragged down from its geo-cultural platform and put equal to a religion and was put in the same category as Islam and Christianity religions, the word 'minority' added shine and attraction to itself. Because, the British separated the Buddhist, Jain, Sikh and Arya Samaj streams from the Hindu religion. By this, the Hindu religion became a Brahminic or ancient religion. This was a historic distortion whose roots are found in the census policies of the British. Dr. Bhimrao Ambedker eliminated this to an extent and added Sikhs, Jains and Buddhists in the constitutional definition of the word 'Hindu'. This has also been proclaimed by the Supreme Court in its various judgments which have defined the Hindu religion.

It is difficult to understand the Minorities problem in its totality without knowing the history of the constitutional legacy which the British passed on to the Constituent Assembly. That constitutional legacy relates to the later part of the nineteenth century. To put it in exact words, after the First War of Independence, the British started looking at Indian society as a group of odd divisions; someone is Upper and someone

is Lower. This was their vision and understanding and their long term plan to save the empire. From this point of view they divided Indian society into specific categories-religious minorities and lower castes. They spread this gradually. They formed many such policies and implemented them. In the later part of the nineteenth century they started preparing lists of the 'Dalit' groups. The British created a mindset. They spread it and claimed that in order to benefit the Dalit groups, as opportunities for them, scholarships, special schools and other programs were being started. Some were actually started. On the other side, they fanned the feelings of Brahminic dominance in the government and the administration. They gave winds to the revolutions. Then they said that to assuage the feelings created by such revolutions, Reservation was being started as a step. This resulted in Reservation in Mumbai for everyone except Brahmins, Marwaris, Baniyas, Parsis and Christians. In 1927, in the Madras Presidency, the government reserved, out of 12, five places for non-Brahmin Hindus, two each for the Brahmins, Christians and Muslims and one for others.

Some states like Baroda, Travancore and Kolhapur also started similar provisions. In Kolhapur (Maharashtra) Sahuji Maharaj reserved 50 percent places in his administration for non-Brahmins.

Similarly, the British Government put the Sikh community in the Minorities category. During the time of the partition, the Sikh leaders in Punjab continuously challenged the Muslim League. During the Cabinet Mission too, in Punjab, the Congress and the Sikhs formed a joint front against the League. On behalf of the Akali Party, Master Tara Singh submitted a memorandum to the Cabinet Mission in which it was demanded that there should be only one Constituent Assembly and that India should not be partitioned. In that memorandum, Provincial Autonomy was opposed on the grounds that the way it has been described in the communal award it will create a helpless situation for the Sikhs. The distortions of the caste system in Hindu society also enabled the British to play their devious moves. This was raised prominently on two occasions. The first was when the Government of India Act of 1935 came. Under that state

governments were formed. At that time there were two parties which were competing with the Congress and who were raising the interests of the scheduled caste groups. These two were the Scheduled Caste Federation and the Justice Party. They demanded in the Round Table Conferences that there should be electoral constituencies reserved for the scheduled castes just as it was for the Muslims.

The Constituent Assembly was aware that various groups based on varying logic, considered Reservation as the panacea to their problems. These leaders included Dr B R Ambedkar who thought that Reservation would benefit those who had been left behind in the path to progress. The British had earlier reserved seats in legislative bodies only, but in 1943, Reservation was imposed in the services too. According to that, in the direct recruitments done by open competitions, 8.33 % posts were reserved for scheduled castes. These directives released in 1943, can be said to be the foundation of Reservation in government services. Without understanding this background, the fundamental reason behind

the continuous increase in the Minorities problem cannot be understood.

The question was that of the protection of the minorities. Where the leadership of the Constituent Assembly was committed towards protection of the minorities, at the same time it was also firm about permanently eliminating the divisive policies of the British. At that time, two forms of Minorities protection were being forwarded. The first was that the religious freedom should be protected. This was incorporated in the Fundamental Rights. The second was which included cultural and educational rights. In this the Minorities were given special rights about their script and culture. Those rights were provisioned in the constitution. By this the minorities were given the rights to protect their educational institutions. Such a demand was old and it was alive at the time of drafting of the constitution. Groups like Buddhists, Jains, Christians, Sanatanis, Shias, Harijans, Kumaonis and other linguistic groups were active for this. These groups drew the attention of the Constituent Assembly through their memorandums. Their memorandums requested that special attention should be given to their problems and their interests should be protected.

We must remember that the Advisory Committee and the sub-committees of the Constituent Assembly did pay proper attention to these feelings. They said that in the membership of the Assembly, due representation had been given to Minority issues. The Rights sub-committee in March 1947, sent

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a questionnaire to leaders of the minority communities in which they were asked what provisions, in their opinion, should be made in the constitution to safeguard the political, economic, religious, cultural and other interests of the minorities. This questionnaire had been prepared by K.M. Munshi. In the beginning of April 1947, the sub-committee considered the proposals received in response to the questionnaire and the draft prepared by Munshi for their rights as a model and prepared a list of Minority Rights. It was included in their report submitted to the Advisory Committee. The sub-committee on minorities, under the chairmanship of H.C. Mukherjee deliberated on the report on 17, 18 and 19 April and submitted its report to the Advisory Committee. In this report there were very few changes of substance in the proposals given by the Rights sub-committee.

The Abrahamic group of minorities includes Muslims, Jews and Christians. This group has two types of traits. The Muslims give more emphasis on their identity. On the other hand are the Christians who seek constitutional protection to look out for ways to indulge in Conversion. In the debate in several stages in the Constituent

Assembly, these tendencies emerged. The intricacies of the Rights which were given by constitutional provisions are related to these tendencies. The constitution makers kept some questions on their priority and left some for future. They must have felt it necessary to do that in those circumstances. If we look at the constitutional provisions, it is clear that there are mutual contradictions in Civil Rights. Limitations have been set for them. At some places they are unclear too. The religious, cultural and educational rights come into this. Dr. Bhimrao Ambedkar has said that the third part of the constitution relating to fundamental rights was the most deliberated upon. When he was saying this he must have remembered that these rights were discussed for 38 days. The deliberations took place for 11 days in the sub-committee, for two days in the Advisory Committee and for 25 days in the Constituent Assembly. Thus this process was completed.

Here, the factor which had a sustained influence on the Constituent Assembly must be mentioned. And that was the global influence. Its history begins from after the First World War. Efforts to define the minorities started

worldwide at that time only. One culmination of which happened in the time of the making of the constitution. The UN announced the 'Universal Declaration of Human Rights' at that time only. That also had a big effect on the constitution makers. But the unfortunate incident which created a totally new situation was the tragedy of India's partition. The Two-Nation Theory had been accepted. This presented the Constituent Assembly with a new challenge. It was such an insurmountable wall for them- that of the Majority and the Minority. The Constituent Assembly had to make efforts to open a door in it. Still, this eight-lettered word 'Minority' is becoming a subject of new concern and big confusion not only in India but in the entire world. The problem of the minorities which the constitution makers regarded as a poisonous creeper planted by the British, and which they had solved by their efforts, is again knocking at the doors of the Supreme Court as a constitutional question.

One big reason for this is its unclear understanding. 'Minor' is a Latin word which became 'Minority' when i-t-y are added to it. The active history of this word is only 100 years old. Before the First World War, in the dictionaries of the US and Europe, the meaning of this word was told in the context of number, politics or law. Till the second decade of the twentieth century there was no essay available in the Encyclopedia Britannica on the word 'Minority'. The League of Nations, in the Treaty of Versailles in Paris, tried to define the word 'Minority' for

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the first time. In that definition, a 'Minority' were said to be those who, in any country, were different from the majority population of that country in terms of religion, caste or language. From then this word is being used in different forms in political discourse. This is continuing. The debate which started on this on different platforms across the world got more confusing over the years instead of being resolved.

For the first time in the 1953 edition of the Encyclopedia Britannica, there was an article on 'Minority'. There is a definition in it- 'A community which considers itself different from the majority of a country on terms of language, religion or feelings.' This is an objective and psychological definition which does not have any relation to justice. The United Nations has also given it a definition. And that is that Minority is a non-dominant group which wants to keep its identity, language and religion different from the majority. There are two things in this- identity and difference from the majority. The World Congress of Social Science was held in Switzerland in 1950. In that, Professor Louise Wirth gave a definition which is different from the previous definitions. If we agree to him, then Minority is the community which is considered inferior on the basis of cast and culture. These are some examples from which we learn that till now a universally accepted definition of Minority has not been propounded. How can India be in a different situation on this issue?

A new and serious question has arisen from the report

For the first time in the 1953 edition of the Encyclopedia Britannica, there was an article on 'Minority'. There is a definition in it- 'A community which considers itself different from the majority of a country on terms of language, religion or feelings.' This is an objective and psychological definition which does not have any relation to justice. The United Nations has also given it a definition. And that is that Minority is a non-dominant group which wants to keep its identity, language and religion different from the majority

of the National Commission for Religious and Linguistic Minorities. This is the first such report of the Commission. The Chairman of this Commission was Justice Ranganath Mishra. The Government of India released a notification to constitute this Commission in 2004. Its report came in 2007. The report is titled- Purport of the word 'Minority'. Meaning and Purport are two different words. They are not synonyms. Meaning is clear where as the word 'Purport' has some other things apart from 'Meaning' which have to be understood. This can be understood by the idiom 'Between the Lines'. The report of the commission says that 'In the Indian Constitution the word 'Minority' or its plural has been used in the articles 29 to 30 and 350a and 350b, but nowhere has it been defined.' Thus the Minorities Commission itself raised this question that 'Who are a Minority'?

Now this subject is under consideration of the Supreme Court. Although on one question of the Minorities, the Constitution Bench of the Supreme Court has pronounced a judgment. The Supreme Court only has the right to interpret the

Indian Constitution. Whenever a constitutional confusion arises over any issue, its decision is considered final. Such a precedent has developed in India. The status which the Supreme Court enjoys in the Indian Constitution is not there in any other constitution in the world. The SC itself started the concept of Public Interest Litigation. Five years ago, a PIL was filed in the Supreme Court. It can be said that the Supreme Court had given its judgment 15 years ago and so it felt it apt that a commission should do the work of defining Minority. The Supreme Court gave a directive to the commission in this regard. It set a deadline too which was three months. Those three months have passed along ago.

From the constitutional point of view, this a new turning point in the Minorities problem. One thing is clear from this that a new debate has started on one level about the Minorities. The subject of Minorities has many levels. The Report of the Minorities Commission presents this in the words- "The Supreme Court, in its various judgments, has thrown light on the specific traits of Religious or Linguistic Minorities. In the case of T.A. Pai and others vs the

Karnatak State, its decision was that Linguistic and Religious Minorities come under the term 'Minorities' as expressed in Article 30 of the Constitution. Because the reorganization of States in India has been done on the basis of Language with the objective of deciding the Minorities, therefore the unit would be that particular state and not entire India. Thus, Religious and Linguistic Minorities have been kept on par with Article 30 and they should be considered state wise."

The question related to the Minorities which is getting bigger today, has many aspects. One is related to the provisions of the constitution. The second is related to the practical and power politics of parliamentary politics. The third is related to the decisions of the Supreme Court from which the circumstantial definition of Minority Rights and Social Equality is getting developed. These are branches of the tree called Minority. The main part is the trunk and its roots. The perspective of the Minorities question has changed fast after Independence. Under the garb of protection of their Language and Culture, many communities of Hindu Society are also competing to become Minorities. The reason behind

this is the mutually contradictory criteria in the constitution. The first is the Principle of Equality. And the second is the Principle of Special Opportunities. Similarly, the Constitution has two arrangements for protection-One-Constitutional and Second-Administrative. In the other constitutions of the world, arrangements have been done to give protection to minorities through Law.

Currently, those questions have arisen which had been raised by the researchers while interpreting the constitution. These questions are of four types. First is that section 2(C) of the National Commission of Minorities Act is arbitrary and illogical and it violates Articles 14, 15 and 21 of the constitution. The second argument is that in this article, unlimited and arbitrary rights have been given to the Government to declare any community as a 'Minority'. Third is that Hindus, which are a majority on the basis of national figures, are actually a minority in several states including the North-East and Jammu & Kashmir. The last is that the Hindu Community has been deprived of those benefits which are present in these states for Minority communities. On this basis a question has arisen

about the definition of the word 'Minority'.

Under article 2(C) of the National Minorities Commission Act, in the ordinance issued by the Government of India on 23 October, 1993, five communities- Muslims, Sikhs, Christians, Parsis and Buddhists were recognized as Minority Communities. In 2014, the Jain Community was also included in the Minority category. Currently, the Jains have a Minority status in nine states. The question to be considered is why there is a competition to become a Minority? Swami Vivekanand had established the Ramakrishna Mission for reforming and uplifting Hindu Society. The same Ramakrishna Mission has for some strange reasons, gained the status of a Minority. There is no dearth of such examples, they are aplenty. The reason behind this is easy to understand. And that is, as soon as they get the status of a Minority, these organizations get some relief from government red-tapeism and corrupt controls. They come out of the stifling atmosphere.

A scheduled caste person from Uttar Pradesh is not considered belonging to the scheduled caste in Rajasthan. When, due to change in state, the status of a person regarding their being from a scheduled caste or tribe or from a backward class can change, then what is the problem in changing their status about being from a Minority or not? In democratic majoritarian politics, Minority Rights are important. A thinker has rightly said any Democracy which does not consider recognizing Minority Rights as fundamental to its

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existence cannot survive for long.

The reasons behind not defining the word 'Minority' in the constitution were the circumstances prevailing then. But, in today's circumstances, a change in this regard is required. India is a democratic, secular and welfare state. And therefore, people belonging to all classes have a right to live a life of dignity. The Constituent Assembly, showing vision, talked about protecting the minorities on the basis of religion and language, but refrained from defining 'Minority'. In the changing scenario, the time has come that Minorities should be defined not only on the national level but at the provincial level. In the states, people of whichever community are in a minority on social, economic or political basis or on the basis of population should be given a Minority status.

Conclusion

My view is that the problem is not in the word 'Minority'. The problem has been magnified and

My view is that the problem is not in the word 'Minority'. The problem has been magnified and made tougher by the divisive attitude towards it. A mindset has developed due to this. Its secret lies in the politics of colonization.

This is the time when we can come out of the clutches of that regressive mindset. This belief comes because India is in a new era. There is a need to consider what should be done. In this regard, I have a suggestion. One, there should be a definition of 'Minority' in the constitution.

Two- the attitude of the government must change

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as a family, and think about the Minorities on all aspects and should make statutory provisions for the protection of the Minorities. Four- The Ministry of Minority Affairs must continue. Its working must undertake a system which reassures every member of minority group. Five- A Minority status of a person should not be decided either on the basis of religion or on the basis of Language but it should be decided on the basis of population. The entire country should be one unit but Minorities should be decided on the local level. ●

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Prof. Himanshu Roy

Construction of Religious Minorities in Colonial India

The Ashraf Muslims always believed that they were the rulers of India and the Hindus were their subjects. As soon as it came to one person one vote system, they started to fear that they might be compelled to be governed by their subjects. A look at the problems arose out of this fear

Islamic invaders entered India in 8th century AD. It expanded to Punjab, Delhi, and in other parts in subsequent years. Since then, till 1858, when the monarchy was abolished, the Muslim monarchs, through their state apparatus - coercive and ideological - created, maintained, and expanded their separate Islamic religious identity instead of merging themselves with the Indic religions like the Pre Islamic invaders. It resulted into partial Islamization of Indic culture, language, literature and administration. However, the Indic was not swamped over by Arabic Islam which had originated and expanded with the idea of revealed knowledge treating others as Jahil - lacking wisdom, knowledge and consciousness - who needed to be brought out of Jahiliya.¹ It sent a message of pre-eminence of Islam and Prophet as the awakened consciousness in relation to Kafirs.

The Islamic invaders constituted of 2.5 to 3 percent of the Muslim population. They were Turks, Persians, Arabs, Uzbeks and others who constituted of more than 70 percent of the ruling elite. The Muslim elite itself was approximately 5 percent of the total Muslim population. The elite of the foreign origin had contemptuous attitude towards Indic converts, for both, Arjals and

Ajlaf. It was more contemptuous towards the Hindus, the Kafirs, particularly towards the non-elite population.² Al-Biruni had observed in 1030 AD that "they (Hindus) differ from us in everything" and there is an "increasing ideological and emotional hostility between the Hindus and the Muslims". He had noted that "Muhammad (of Ghazani) had utterly ruined the prosperity of the country, and performed there wonderful exploits, by which the Hindus became like atoms of dust scattered in all directions" (p. 10). He had added that Muhammad bin Qasim had entered Sindh penetrating even as far as Kannauj... 'Sometimes fighting sword in hand'. Al-Biruni had also written that Hindu science had retreated far away to those parts of the country which were not yet conquered by the Muslims. Al-Biruni was Persian, who had stayed in Ghazani and had travelled to India for six years. His description of the Muhammad's rule is an eye witness account. Ghazani, the capital city, was built arduously by Muhammad with the loot of India (e.g., 136 metric tons of silver was looted from Kangra Fort alone). The far west region of India by that time had begun to witness mass conversion³ which had substantive presence of Buddhists, who, in

turn, were largely dalits. The invasion of India by the Muslim kings, here it may be stated, had begun during the rule of Caliph Umar when the prohibition against expedition to India was removed and the plans to invade it began. The first invasion took place as early as 644 which was repulsed.⁴ A better plan began in 710 AD.⁵ During the Prophet's time, or as far as 636 AD during the Caliph's time, invasion to India was disapproved as it was considered as the land of perfect freedom.⁶

Majority of the Indian Muslims (approximately 95 per cent) were dalits and Other Backward Castes (in contemporary metaphor) who had converted to Islam but continued with their traditional professional roles. The percentage of Muslim population to Hindus was approximately 6-7 per cent. It was this demographic asymmetry and the persistent local revolts that partially restrained the Arabic-Persian elite in its act of forced conversion of Hindus. Yet, the Arabic-Persian Islamic culture which had arrived with the foreigners percolated downwards over the centuries,

and crept into the culture of the local Muslim converts who imitated the Arabic culture. The non-Indic Muslim elite (the ashraf), who had felt superior, prided itself of being non-Indic, and looked at the Indic residents contemptuously, was substantively responsible for partitioning India in later years when, demographically, Western and Eastern India became Muslim majority regions.

The arrival and expansion of Sufi culture in Indic region, which had emerged in Persia from below, further helped them. The expansion of it (Sufi) was with the tacit understanding of the ruling elite to deflect popular rebellion against the elite.

The conversion itself happened due to the combined powers of force of sword, the taxation, the Sufi and the Madrasa. It has been well recorded by Muslim chroniclers and travellers over the centuries. In the 16th century, "when Raja Silhadi (also known as Raja Shiladitya) was imprisoned and asked to accept Islam he would on no account agree, and it was with great difficulty that he did himself the honour of entering Islam.... Rajputs

were compelled to convert under political pressure." Even in the Varta Literature of Vallabha Sampradaya, there is an unsympathetic portrayal of Muslims. Also, the converts felt that the conversion will provide them better opportunities and living conditions. Robert M. Eaton's works refers about it; Aniruddha Ray also confirms it.⁷ More was the expansion and deepening of their political rule, more was the inflow of the immigrants and the conversion of the Indic subjects who imitated the religious and cultural practices of their elite. In turn, this created and deepened the 'ideological and emotional hostility between the Hindus and the Muslims'⁸ as this brought in an alien culture in the localities. The conversion changed the names of converts, their rituals, worships, books, alphabets, dress, food and transformed them to behave like Arabs. It culturally uprooted them and made them aliens in their own villages and localities. From being Indic, they became Arabs, Persians, Turks. The hostility was so deep that even in the 17th century when Dara Shukoh was contesting for throne a section of the Muslim had then felt that "if he... obtains the throne, and establishes his power, the foundations of the (Islamic) faith would be in danger and the precepts of Islam would be changed for the absurdity of infidelity".⁹ For, Dara Shukoh was viewed as lenient, tolerant towards Hindus, the infidels. He had got the Upanishad translated into Arabic and had felt that Vedantic Hinduism and Islam were distinct in name only which was rejected by most Muslims

Even in the Varta Literature of Vallabha Sampradaya, there is an unsympathetic portrayal of Muslims. Also, the converts felt that the conversion will provide them better opportunities and living conditions. Robert M. Eaton's works refers about it; Aniruddha Ray also confirms it. More was the expansion and deepening of their political rule, more was the inflow of the immigrants and the conversion of the Indic subjects who imitated the religious and cultural practices of their elite. In turn, this created and deepened the ideological and emotional hostility between the Hindus and the Muslims

Manthan

of the time.¹⁰

The social gap between the two religious communities was so wide that David Lorenzen felt that medieval Hindus sought to maintain a distance¹¹ which has been substituted by the Varta literature and Aniruddha Ray's works as referred earlier. The unfortunate part of the Islamic praxis was that even the Sufis welcomed the conversion either by force or by choice. It depended on the circumstances and timings. In Kashmir, they encouraged the demolition of temples while maintaining outwardly good relations with the Hindus. In Bengal, they made forcible conversions and destroyed the Hindu temple near Pandua to construct a Khanqa.¹² Tavernier was astonished to observe this kind of situation in 1676.¹³

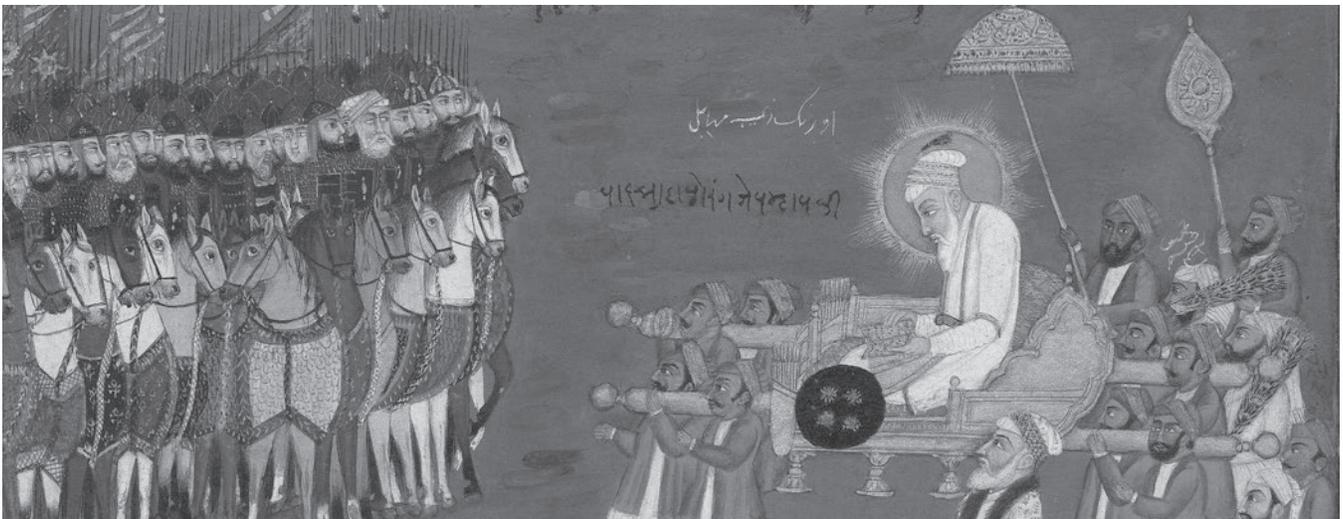
Idolators of India are so numerous that for one Muhammadan there are five or six gentiles. It is astounding to see how this enormous multitude of one has allowed itself to be subjected by so small a number of persons, and has bent readily under the yoke of Muhammadan princes.

The Sufi, nonetheless, was the midwife that facilitated the expansion of Islam in its soft ideological form. It led to its acceptance among the poor. For, Sufi had emerged in Persia from below in the 9th century that spread to India since 11th century.¹⁴ One of its exponents was Amir Khusro, born in India, whose father had migrated from Balkh. Khusro praised India as his motherland and paradise, placed Sanskrit above all other languages except for Arabic, and treated Hindavi as his mother tongue.¹⁵ But on many occasions, his writings were contemptuous of Hinduism and glorification of Islam. One for example was the description of scene at Chidambaram where he says, the women of the infidels rub their vaginas on the ling of Mahadeo; or about Somnath, he says, the Mecca of the infidels became the Medina of Islam. At other places, he described about the triumphal march of Islam and submission of idolators through the power of sword. It seems he was contemptuous of Hindus about whom he felt that they exist for the service of Turks.¹⁶ Islam or death¹⁷

has been a recurring theme of debate throughout the regimes of Muslim rulers.

The local converts were 'integrated' with the Arabs-Turks under the banner of Islam. The Arabs-Turks, however, never treated them, the local converts, as their own. Rather, they were treated as the service providers and foot soldiers to their rule. Even in the cultural domain, the literary works that emerged in Urdu, Hindavi, and Hindustani were treated as substandard in comparison to Persian; and the Persian literary composition of Hind was not even taken note of in Iran.¹⁸ Parallel to it, there emerged Bhakti movement that reflected the Indic genius at their best which was substantively the result of the Islamic encounter. Most of the Bhakti poets, from Basava, Vemana, Janabai to Sankaradeo, Tukaram, Kabir and Tulsi, wrote and spoke in their native vernacular languages and dialects. This was one branch which witnessed substantive production of literary works.

The Muslim rule also brought in its wake burqa for their women in Harem which percolated downwards. The working



women were relatively free from it. It was not possible for them to cover their faces while working in the fields. It may also be added here that there was wide regional, subregional variations. The tribal areas were free from it. They were also free from Sati. Sati was more applicable on the elite section. Even here, it was more voluntary rather than coercive. Coercion was applied in many cases but it was not the rule.¹⁹ Sati was not mandatory; plus, there was wide regional variations. Southern India, North-Eastern India were almost free from it. It may also be clarified here that Sati was not Jauhar; these were two different social occurrences; the latter was purely applicable on the princely Hindu women, who killed themselves in fire to save their honour once their king/prince lost the battle and their honour was at stake. Foreign travellers, both Europeans and Arabs, who stayed in India in different capacities for years, have written widely on Sati, on social status of women, on the condition of subaltern rural poor, peasants and on the royalties.

There were changes in the dynasties of the Muslim rules over the centuries; but the fundamental of the polity, as explained above, remained almost similar with minor modifications. The rulers adopted different Indic cultural symbols in their royal insignia but their feeling of insecurity in an alien land haunted them. "The Hindus here are in such number that the Muslims in their midst are like salt... . As the Muslims and their army grow in strength, I shall then give the Hindus the choice of Islam or

Sir Syed Ahmad Khan had argued that Muslims were a separate *kaum*, that Mahommedans can never accept Hindus as their rulers, that "they are ready to sacrifice themselves for that glory which they still inherit from their fore fathers who were erstwhile rulers of India... . We are those who have ruled India for six or seven hundred years... Our nation is of the blood of those who made not only the Arabia, but Asia and Europe, to tremble

death."²⁰ The Muslims elite kept on coming to India as invaders and immigrants till 18th century; and the feeling of being a ruler kept on recurring till the end of 19th century best reflected in the writings of Sir Syed Ahmad Khan²¹ and in the presidential address of Rahimtulla M. Sayani of the Congress in 1896. Sir Syed Ahmad Khan had explicitly posited 'that Mahommedans can never accept Hindus as their rulers'. However, notwithstanding this, the popular praxis among the Ajlaf and Arjal, who were local converts, remained substantively.

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perpetuating their culture on the 97 per cent of the Muslims who were Indic, the local converts. In their everyday praxis, they remained rooted to their localities. They continued with their diffused land holdings, with customary rights, and enjoyed wide degree of social-individual freedom. Their professional skilled labour, of different 'castes', continued; their marriages, social relations remained endogamous, within castes; the *jajmanis* system continued.

In nutshell, the Muslims in India had dichotomous existence. The conversion to Islam created the dichotomy. The Muslim invaders and the immigrants considered themselves Arab; the percolation of this identity among the local converts, and their acceptance of it, was the root cause of this social disconnect. More the Arabic and Wahabism of Islam for religious purification, more was the social disconnect of the Muslims with the Indic roots. Had they rejected Arabic cultural this identity, the social disconnect with the Indic world would not have happened. The rejection of one's own history and the acceptance of other's history as their own becomes problematic in history.

The minority question, thus

began as political problem in late 19th century specifically after the foundation of the Indian National Congress.²³ The Congress from its foundational years had begun to demand for the Indian representation in the Imperial / Legislative / Municipal councils of the colonial state premised on the British liberal principle of citizenship. The Congress perceived it as an instrument of political modernity for India based on the British pattern of liberalism, democracy and good governance which essentially meant focus on individualism and application of rule of law transcending the primordial relations of religion, caste and region. The Muslim elite, particularly a segment of it led by Sir Syed Ahmad Khan and The Muhammadan Anglo-Oriental Defence Association (M.A.O.), however, perceived this demand as a medium of Hindu domination and unfit for unhomogenized population and for 'unwilling minority'. In fact, they felt 'that the National Congress is strongly opposed and hostile to the political rights of Mohammedans'. In a speech delivered at Lucknow in 1887, Sir Syed Ahmed had remarked "they (the National Congress)

want to copy the English House of Lords and the House of Commons. The elected members are to be like members of the House of Commons; the appointed members like the House of Lords. Now, let us suppose the Viceroy's Council made in this manner. And let us suppose first of all that we have universal suffrage, as in America, and that everybody, *chamars* and all, have votes. And first suppose that all the Mohammedan electors vote for a Mohammedan member and all Hindu electors for a Hindu member, and now count how many votes the Mohammedan members have and how many the Hindu. It is certain the Hindu members will have four times as many because their population is four times as numerous... And now how can the Mohammedan guard his interest?" He questioned the audience and then himself answered it. "Let a rule is laid down that half the members are to be Mohammedan and half Hindu and that the Mohammedans and Hindus are each to elect their own men."²⁴ This questioning and proposal was further supplemented by 'A Mohammedan Manifesto' drafted by the M.A.O. Defence

Association 'dealing with the issue of the representation of Mohammedans on the Legislative Councils and Municipalities'. The Association had sought 'adequate representation...for minorities' and had argued that "Mohammedan community must be regarded as a political unit with its own interests and sentiments."²⁵ Here, it must be noted that Sir Syed was the leading member of this Association. In fact, it was at his residence that the initial meeting was held to form this Association and he was one of the members of its rule-drafting committee. In their defence, he had argued "that as the first essential for inaugurating any system of government, regulated purely and entirely by the majority of votes as such systems must necessarily be, it is indispensable that there should be a tangible homogeneity among the voters in point of race, religion, social manners, customs, economic conditions, and political traditions of history. In other words, the franchise, or the right of voting by the representative system, necessarily presupposes homogeneity, that is similarity among the voters and the population of country in general in regard to the above mentioned points, before the representative system can have any application or be productive of any good."²⁶ Similarly, their proposal of separate electorate was premised on the logic that Muslims were a separate nation (*Kaum*) who must have equal representatives at par with Hindus. The principle of one man one vote will lead to Hindu domination due to their numerical preponderance

The principle of one man one vote will lead to Hindu domination due to their numerical preponderance and will adversely impact the power relations. It was explicitly posited 'that Mahommedans can ever accept Hindus as their rulers' and that "they are ready to sacrifice themselves for that glory which they still inherit from their forefathers, who were erstwhile the rulers of India" Sir Syed himself had commented that "our nation is of the blood of those who made not only Arabia, but Asia and Europe, to tremble

and will adversely impact the power relations. It was explicitly posited ‘that Mahomedans can ever accept Hindus as their rulers’ and that “they are ready to sacrifice themselves for that glory which they still inherit from their forefathers, who were erstwhile the rulers of India” Sir Syed himself had commented that “our nation (Muslims) is of the blood of those who made

not only Arabia, but Asia and Europe, to tremble. It is our nation which conquered with its sword the whole of India, although its people were all of one religion.”²⁷ Evidently, they treated Muslims as one homogenized community with a shared political traditions of history and Hindus as their subjects. Their subjects becoming their rulers under

the representative system of one man one vote haunted them. Inevitably, they opposed it with all their might and counter posed it with alternative proposal of separate electorate. The British under a planned design constitutionalized this alternative proposal through 1909 Act and institutionalized the minority policy for the posterity. ●

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Dr. Seema Singh

A Deep Insight over Constitutional Paradox

Secularism in our system, encourages discrimination against majority instead of promoting inclusion of minority into the mainstream of society and thus it has been confined merely to be a weapon of appeasement for politics. A systematic study

In a secular country like India identification of religious minorities does not seem logical. Special protection to the religious minorities in a secular country and in one of the oldest civilization which always protected and assimilated religious and cultural minorities cannot be justified. The present paper explores the origin of term secularism and its imposition over the people of this country under the influence of the Government of India Act, 1935. How in a country like India having a secular constitution, state sponsored religious promotion is going on is the core theme of the discussion?

Introduction

Secularism is a much celebrated term across the globe in Politics, in Judiciary and in legal academia. This word has different connotations but it is important to understand it in its true sense. The term 'Secularism' was first used in 19th Century by British Reformer George Jacob Holyoake. For his definition he relied upon the definition of French scholar Jean Bauberot¹. Bauberot sees three essential components to a secular society which are: 1) the separation of religious institutions from the institutions of the state; 2) freedom of conscience for all

individuals, circumscribed only by the need for public order and the respect of the rights of other individuals; 3) no discrimination by the state against individuals on the basis of their beliefs.²

There is a deep and long historical background behind the roots of this term and it may be considered as an outcome of conflict between church and kings. The bone of contention behind this confrontation was the desire of monopoly over power and wealth. After attaining the religious supremacy, the father of churches started making attempts to control the political power. On one hand Churches were encouraging people to adopt simple living and high thinking and on another hand they were leading a lavish and luxurious lifestyle.

With the recognition of Christianity as state religion and rise of papacy a unified Christian world was established and the boundaries of the Roman Empire and the Christian world ultimately coincided. The powers of the two authorities were never clearly demarcated. This resulted in the overlapping of the powers. Again the field of implementation of the powers of both the spiritual and temporal authorities was poised for conflict. Any compromised formula

was unacceptable to both of them. Relations became strained and the conflict appeared inevitable³.

This ultimately ended up in a compromise where it was decided mutually that the pope and the king will not interfere into each other's territories and will remain totally separated from each other. Thus this idea of secularism was evolved, which means a complete separation of government and religion.

The Idea of Inclusion & Secularism of Bharat

“Ekam Sat Vipra Bahudha Vadanti” is a Sutra quote from of all the over one hundred Upanishads. This aphorism means: “That which exists is ONE sages call it by various names.” This principle of Upanishads is deeply ingrained into the Indian civilization since thousands of years resulting into extreme acceptability of any religious community into this country. This idea was further expanded in urging the masses to see God's presence, in every atom of the Universe; and this generated the presence of same, ONE, soul in all living beings⁴.

The Indian tradition is pluralistic and has always offered freedom of worshipping the Divine in the name and form of one's choice and according to one's individual samskaras.

It is pluralistic both at the level of religious practices as well as philosophical teachings from Shaiv, Shakt, Vaishnav, Dvait, Advait and many more. This makes Indian Ethics and philosophy quite unique a develops a sense of assimilation and accommodation for all.

Arrival of Invaders & Divide and Rule Policy of British Regime

India is a country which was constantly invaded and looted in last 1000 years. Different invaders invaded for different purposes. Muslim invaders looted India, destroyed structures and converted Hindus forcefully into Islam while Britishers not only looted the prosperity of this nation but also polluted the mind, thought and spiritual identity of this country. As per an estimation they have looted 45 trillion dollars from India in 200 years.⁵ This much money was sufficient to remove their depravity but they wanted to suck the Indian economy as longer as possible. The Mutiny of 1857 came as a major setback for them. First time they realized that unity among Indians will not allow them to rule over this land for so long. They re-strategies to rule the country and by 1858, they started playing Indians against one another – princes against people;

Hindu against Muslims; caste against castes; and provinces against provinces⁶.

Partition of Bengal in 1905, between the largely Muslim eastern areas from the largely Hindu western areas is an example of this divisive politics. The Communal Award was announced by the British Prime Minister, Ramsay MacDonald, in August 1932. This was yet another expression of British policy of divide and rule. Communal Award was to grant separate electorates in British India for the Forward Caste, Lower Caste, Muslims, Buddhists, Sikhs, Indian Christians, Anglo-Indians, Europeans and Untouchables (now known as the Dalits).

Creation of Muslim League as a political party in 1906 was the result of such encouraging divisive politics, which subsequently strongly advocated for the establishment of a separate Muslim-majority nation-state, in the form of Pakistan in 1947.

Religious Minority and Government of India Act, 1935

The Government of India Act, 1935 was the longest Act passed by British Parliament. This Act gave a constitutional status to the religious minorities by providing a separate communal representation, by providing separate electorate to the Muslims. Under the Act Muslims got 33 percent (1/3 of the seats) in the Federal Legislature. Even the workers and women got separate representation although they had not asked for it⁷. This GoI Act, 1935 was rejected by Congress in a Conference of Elected Representatives in 1937 on the ground that it nourishes

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the roots of exploitation and slavery of India and re-enforces the foundation of British Imperialism in India⁸.

In 1936 and 1939 Congress working committee passed the resolution for the Constituent assembly. Under the Cabinet Mission Plan of 1946, for the first time elections were held for the constituent assembly. The members of the Constituent Assembly were elected through indirect election, where the members were chosen by the provincial assemblies elected through restricted franchise⁹.

The elections for the 296 seats assigned to the British Indian provinces were completed by August 1946. Congress won 208 seats, and the Muslim League 73¹⁰. After this election, the Muslim League refused to cooperate with the Congress, and the political situation deteriorated. Hindu-Muslim riots began, and the Muslim League demanded a separate constituent assembly for Muslims in India.

As a result of the partition, under the Mountbatten plan, a separate Constituent Assembly of Pakistan was established on 3 June 1947. The representatives of the areas incorporated into Pakistan ceased to be members of the Constituent Assembly of India¹¹.

Constituent Assembly & Debate over Religious Minorities

Minorities have special protection in the Indian Constitution. As we discussed earlier that term religious minorities were seriously propagated by Britishers to divide India on the line of religion for their smooth expansion and longer stay of



empire. Pakistan was created by Jinnah and Muslim League as they rejected to stay with majority Hindus in India.

Benefits like Communal Award and Reservation were given to religious minorities by the British Government. The division of Independent India on religious lines was alarming for constituent assembly. So there was a rigorous debate over using the term religious minorities.

During the constituent assembly debate the house rejected the idea of minorities as a rule. The bitter feeling of partition created a strong feeling of resentment in constituent assembly and the members preferred to use term “certain classes” than using the term minorities.

In the constituent assembly few members like Qazi Karimuddin, ZH Lari and DH Chandrasekhariya supported the idea of proportional representation but assembly scrapped all suggestions and provisions discussed for the political representation of minorities to discourage the tendency of separatism through separate electorate based upon quota in proportion to their population¹². Even while

discussing ‘right to worship’ or ‘religious practice’ the constituent assembly was agreed that all Indian citizens should be identified only as a citizen of India. The prominent argument for rejection of such a demand was based upon the consideration of nationhood and national unity.

Begum Aizaz Rasul (United Provinces: Muslim) raised very valid points. She supported the idea of integration of all communities in one nation irrespective of giving preference to their religious orientation. She said that it is in the interests of the minorities to try to merge themselves into the majority community as in the long run it will help them to win the goodwill of the majority. She further said that the Muslim living in this country should throw themselves entirely upon the good-will of the majority community, should give up separatist tendencies and throw their full weight in building up a truly secular state.

She further stated that- those Muslims who wanted to go to Pakistan have done so. Those who decided to stay here wish to be on friendly and amicable terms with the majority community and realize that they must develop their lives according to the

environments and circumstances existing here¹³.

Damodar Seth argued that if any protection is required to be given to minorities then they should be only linguistic. To Seth, if religious minorities were allowed to run their educational institutions, it would "promote communalism and anti-national outlook"¹⁴.

Mr. H.C. Mukerjee, chairman of the minorities sub-committee in the advisory Panel on 11th May 1949 while expressing his disapproval said that –“ there are certain people who really feel alarmed over the future of their communities and want to come to legislature to safeguard the interests of the groups they belong. But once Fundamental rights have guaranteed religious, cultural and educational safe guard, presence of people belonging to certain groups is not necessary¹⁵.

Though today minorities are recognized on the basis of religion but the constituent assembly had discussed that cultural rights should be provided for linguistic groups alone and not for religious groups.

Mr. Swaroop Seth suggested that –“recognition of minorities based on religion or community was not in keeping with the secular character of the state. If such minorities were granted the

right to establish and administer educational institution of their own, it would not only block the way to national unity but also promote communalism and anti-national outlook¹⁶.”

G.B. Pant and Rajkumari Amrit Kaur had similar concerns. They opposed the idea of establishing separate educational institutions or state aid to these institutions.

Art.23 of the draft constitution, which later assumed the shape of art.29 and 30 was discussed rigorously in the constituent assembly to resolve that what right should be conceded to minorities. The original draft of the fundamental rights submitted to the Constituent assembly on April 16, 1947 by the Sub-Committee on Fundamental Rights did not contain any provision corresponding to article 30(1) and did not even refer to the word minority. The letter submitted by K.M. Munshi to the Minorities Sub-Committee on the same date when, along with some other rights, the rights now forming part of article 30(1) was proposed, made a reference on the term “national minorities”. The Drafting committee, however, sought, to make a distinction between the rights of any section of the citizen to conserve its language, script or culture and the right of the minorities

based on religion or language to establish and administer educational institutions of their choice and for this the committee omitted the word “minority” in the earlier part of the draft article 23 corresponding to article 29, while it retained the word in the latter part of the draft article 23 which now forms part of the article 30(1)¹⁷.

B. R. Ambedkar sought to explain the reason for substitution in the Draft Constitution of the word minority by the words “any section” observing: It will be noted that the term minority was used therein not in the technical sense of the word “minority” as we have been accustomed to use it for the purpose of certain political safeguards, such as representation in the Legislature, representation in the service and so on. The word is used not merely to indicate the minority in the technical sense of the word, it is also used to cover minorities which are not minorities in the technical sense, but which are nonetheless minorities in the culture and linguistic sense. That is the reason why we dropped the word “minority” because we felt that the word might be interpreted in the narrow sense of the term when the intention of this House.... was to use the word “Minority” in a much wider sense so as to give cultural protection to those who were technically not minorities but minorities nonetheless¹⁸.

Despite all the argument it is clear that the constituent assembly rejected the idea of recognition of religion based cultural identity. Though in the entire history of human civilization of India minorities were never ill-treated by majority but then too

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for unknown reasons to develop a sense of security special rights were given to religious minorities in the constitution. It is important to mention that constituent assembly never tried to define religious minorities which indicated that they largely endorsed the philosophy of British government to identify religious minorities. We should not forget that the purpose of British government to encourage religious minorities was to enhance the concept of sectarianism and separatism.

It seems that boycott of constituent assembly by Muslim League put an unknown pressure on the members of Constituent assembly and to develop the feeling of security among those who preferred to stay in India term 'religious minority' was used in art.29 and 30.

Religious Minority in Constitution & Post Independent India

Unfortunately, neither in pre-independent India nor in Post Independent India term religious minority was ever defined. Even the Moti Lal Nehru Report (1928) which talks about strong desire of protecting minorities did not define the term. Similarly the Sapru Report (1945), which proposes Minority Commission,

is silent over the term. In reality, even in post independent India we are following the idea of Religious Minority created by British government created for the purpose to divide us.

In the Indian Constitution at several places term 'Religious minority' has been used, but under art. 30 some special protection has been given to religious minorities¹⁹. Though even under this article 'religious minority' remained undefined.

In the present legal scheme, the National Commission for Minorities Act,1992, enabled the Centre to notify minorities for the limited purposes only and in exercise of that power the government had notified five communities as minorities. So the term is largely at the disposal of Centre and gives them so much of unguided power to declare religious minorities the way they want.

In independent India 'Religion', especially 'Religious Minorities' became a puppet in the hands of politicians and inclusion of the term "Secularism" in the Constitution through 42nd Amendment Act, 1976 has further extended the scope for the misuse of term religion and religious minorities in Indian politics, though the constitutional validity of this

amendment is still in debate.

Here it is important to note that on 15th Nov. 1948 in the Constituent Assembly when Prof. K.T. Shah demanded the inclusion of word "secular" in the constitution, the idea was dropped by Pandit Nehru and Dr. B R Ambedkar.

Religious Minorities, Secularism and Role of Judiciary

As discussed above neither in the pre-independent Indian nor in the post independent India any effort was made to define the meaning of religious minorities. In the case *Kerala Education Bill*²⁰ the issue of interpreting the term religious minority was raised before the court. In this case the Supreme Court has defined term "Religious Minority" in a very vague manner and held that—"any religious community having less than 50% of the total population should be identified as religious minority. But this definition is extremely vague and gives more discretion to executive to play with the term "Religious Minority" for political purposes. In this judgment S.C. also held that the religious minorities should be identified at state level to avail the protection of art. 29 and 30.

In another case of *T.M.A. Pai Foundation*²¹ the majority of the Constitutional Bench has decided that the religious and linguistic minorities should be identified at the State level and not at the national level. But, very recently National Commission for Minorities has refused to consider a plea filed by Shri. Ashwini Upadhyay, a SC advocate, which sought to declare Hindus as a minority

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community in 8 states. Though in all these States (Kashmir and North East, Lakshdweep) Hindus are minority but they are not receiving any benefit which other minorities are receiving in Hindu majority states. This is sufficient to raise concerns over the concept of constitutional inequality as rights granted to the minority, are unavailable to the all over all majoritarian Hindus. This case was a golden opportunity for the court to protect the rights of the Hindu religious minorities in these 8 States but it was missed by the judiciary. So still a blatant inequality against minority Hindus in these states is going on.

In the discussion of religious minorities one of the very important right available under art. 30 cannot be ignored. A special legislation "The National Commission for Minority Educational Institutions Act, 2004" was created to safeguard the educational rights of the minorities and amended in 2006 and 2010. The Act defines "minority" under Section 2 (f), which says as for the purpose of this Act, 'Minority' means a community notified as such by the Central Government. Furthermore, as regards the indicia to be prescribed for grant of minority status certificate, a reference to Section 2(g) of the Act has become inevitable as it defines a Minority Educational Institutions. Section 2 (g) is as under: - "Minority Educational Institution" means a college or an educational institution established and administered by a minority or minorities.

23.10.1993 Vide a Gazette notification issued by the Ministry of Welfare, Government of India, five religious communities viz;

As discussed above the true meaning of term 'secularism' is non-promotion of any religion above others and non-preference to religious sentiments over unity, integrity and sovereignty of the nation. But in the case of *Bijoe Emmanuel & Ors vs State Of Kerala & Ors* the Supreme Court pronounced its judgment other way. This case pertains to 3 students of Jehovah community who were expelled from the school for not singing the national anthem. They said that their religion does not permit them to worship anybody else except their God

the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities²².

But, once we check the percentage population of these religious minorities we find a huge gap. As per 2011 census the population percentage of different religious minorities is-Muslims-14-15%, Christians-2.96%, Sikhs-1.57%, Jain-0.945 Buddhist-0.96%, other religion-0.66%. Thus Muslims with largest proportion of minority population are most favored community as a vote bank for the most political parties but least represented Parsis are of no use for the majority of political parties.

The gravity of vagueness of this term 'Religious Minority' can be understood in one more way. Ironically the Ministry of Minority Affairs which was carved out from the Ministry of Social Justice, keeps tentative annual budget of 4,500 Crore, and distribute its benefits to religious minorities without having any clear criteria to identify them²³.

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In this case, the Supreme Court held that, art. 19(a), which guarantees freedom of speech, and Article 25, which gives the right to freedom of conscience to freely profess, practice and propagate religion are fundamental rights which are guaranteed to every citizen. Over here the reason to compel each and every student to join in the singing of the National Anthem despite his/her genuine concern that it would violate their religious belief clearly breaches the right guaranteed by Article 19(1)(a) and Article 25(1) of the Constitution of India.

But in this judgement the preference was given to religious sentiments over nation which may create a wrong precedent where people belonging to different religious communities may deny singing national anthem or saluting national flag on the

basis of their religious belief. It is definitely a problematic interpretation for the integration and secular fabric of this nation.

Another important issue related with minority rights and secularism is the conflict amongst art.27²⁵, art.29(2)²⁶ and art.30²⁷ of the Indian Constitution. In a judgment while interpreting art.27 the Supreme Court held that there can be two views about Article 27. (a) Article 27 is attracted only when the statute by which the tax is levied specifically states that the proceeds of the tax will be utilized for a particular religion. (b) Article 27 will be attracted even when the statute is a general statute, like the Income Tax Act or the Central Excise Act or the State Sales Tax Acts (which do not specify for what purpose the proceeds will be utilized) provided that a substantial part of such proceeds are in fact utilized for a particular religion²⁸.

A forever bone of contention is- can state fund minority institutions in a secular state? And whether students of non-minority community can be denied to take admission in such state funded minority educational institutions? Will that be in the violation of art. 27 and art. 29(2)? Is it not the promotion of a religion by state by the money of tax payers?

In the case of *St. Stephens's college v University of Delhi*,²⁹ honorable Supreme Court pronounced the judgment which needs a re-look. In this case the validity of admission programme and preference given to Christian students by the college was challenged as violative of Delhi University circulars for admission. The

In another very important case of *Pramati Educational & Cultural Trust & Ors. vs Union of India & Ors* again supreme court gave supreme preference to religious minorities. In this case the bench upheld the constitutional validity of the Right of Children to Free and Compulsory Education Act, 2009 (RTE). The second part of the *Pramati* judgment exempts all minority institutions from the application of the RTE Act and held that minority institution whether aided or unaided will not be bound by any kind of reservation policy

admission prospectus provided that there will be an interview prior to the final selection to college. The university stated that the college was bound to follow the university rules for admission and the college could not conduct an interview and had to take the students on the basis of their marks in the qualifying admission. The College filed a writ petition in the Supreme Court challenging the validity of the university circulars on the ground that they were violative of their fundamental right to manage their college under Article 30. The Supreme Court held that college was not bound by the university circulars because of their minority character and right under Article 30(1). The court also said that the right to select students for admission is an important facet of administration and thus is inherent in the right under Article 30(1). It further held that minority aided educational institutions may preserve 50% seats for their community candidates and are entitled to give them preference in admissions as it is necessary to maintain minority character of institutions.

Similarly in the case of *St. Xaviers College v State of*

Gujarat,³⁰ the college was run by a Jesuit society of Ahmedabad with the object of giving higher education to Christian students. The validity of certain sections of Gujarat University act was challenged which provided for the administration of the college in effect to the government and the university through which the college is affiliated. The court held that these provisions abridged the right of the minority to administer the education institutions and therefore these provisions did not apply to minority institutions as the right to administer includes the right to 'conduct' and 'manage' the affairs of the institution.

In both the cases the least prioritized fundamental right, i.e. art.30 received preference by judicial pronouncements over the previous more valuable articles like art.14,15, 27 and 29(2).

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the Pramati judgment exempts all minority institutions from the application of the RTE Act and held that minority institution whether aided or unaided will not be bound by any kind of reservation policy of the State but non-minority institution even if they are not receiving any aid from the State would be bound to implement the reservation policy of the State, including implementation of the Right to Education Act, which reserves 25% seats for economically weaker sections (EWS).

This judgment proved that there is a clear cut distribution of rights and liabilities. Rights for minorities and liabilities for non-minorities³². It is clearly discriminatory and indirectly lures the majority to convert into minority to avail the benefits of these exclusionary clauses. Any encouragement or lure for conversion is unconstitutional in itself. So this is the biggest paradox of secular constitution.

The same point was accepted by the Supreme Court in the case of *Islamic Academy of Education vs. Union of India*³³. Here SC has said that though the purpose of art. 30 is to ensure protection to the religious minorities but it cannot be denied that protection

of art.30 gives preferential treatment to religious minorities over religious majorities³⁴.

In a very recent petition of *Neeraj Shankar Saxena and ors Vs. Union of India and ors*³⁵ the petitioner has raised certain the issues of serious paradoxes in the Indian constitution and policies of the government. Petitioner mentioned in his petition that being a Hindu Community member he is discriminated as he can not avail the benefit of a number of beneficiary schemes carrying budget of Rs.4700/- crores initiated in the favour of some religious minorities even when the constitution does not conceive the idea for making special provisions in the favour of particular religion/s. Petitioner also challenged the Constitutional validity of establishment of National Minority Commission by Central Act No. 19/1992 as Parliament cannot make any law for the benefit of any religion maybe, for minority religious groups and further that special benefit and advantage within the sweep of Article 15(4) can be provided only to those communities who are found 'socially and educationally backward' classes of citizens by a Commission established under

Article 340 of the Constitution of India. From tax payer money, no religion or religious groups can be promoted and therefore, no Minority Commission can be created to achieve the purposes enumerated in the Act. The Government cannot be invested with the power to declare any Community as a Minority Community. It is for the Minority Community to establish the institution of its choice in accordance with Article 30 of the Constitution of India.

The petitioner also mentioned that the Government and Parliament of India cannot promote minoritism and cannot show inclination towards them and allure them to flourish by initiating beneficial programs for them. Such an action will be detrimental for the Sovereignty and Integrity of India and give rise to separatists and may create a situation for another division of the nation.

Mentioning few examples the petitioner has said that the Government of India laid down economic criteria in respect of some of the schemes and the persons belonging to notified minority communities having total income of Rs. 6 lacs per annum have been declared eligible to avail the benefit of the scheme. On the other hand, the similarly situated persons having less than six lacs income per annum are not qualified to avail the benefit of the scheme because they belong to majority Hindu community. Therefore, the action of the Government is not to provide assistance to needy and poor sections of the society but to benefit a section of society because they belong to a particular religion and therefore,

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such an action is completely discriminatory.

Though the matter is still sub-judice but the petitioners have raised very serious questions over the so called secular constitution of India. In the guise of secularism bundles of benefits are given to the religious minorities without any liability but such protections are not available to the people of majority community. Can't be said that this is state sponsored religious promotion which encourages people of no-minority community to get converted into any religious minority? By not defining the definition of minority state has taken so much of power in their hands to play with appeasement politics.

In a country like India which is full of religious and cultural diversity promoting religion can give disastrous results. It is actually creating a hurdle in proper integration of religious minorities with majorities in India. The imperialistic scheme had devised the word "minority", to rule over India. The minorityism that grew out of it led to division of India, but India failed to learn its lesson, so under the garb of minority, the politics of 'Minorityism' is creating havoc for national unity

In a country like India which is full of religious and cultural diversity promoting religion can give disastrous results. It is actually creating a hurdle in proper integration of religious minorities with majorities in India. The imperialistic scheme had devised the word 'minority', to rule over India. The minorityism that grew out of it led to division of India, but India failed to learn its lesson, so under the garb of minority, the politics of 'Minorityism' is creating havoc for national unity and integrity

and integrity. The Preamble of the Indian Constitution declares the goal like –'Secularism, Equality and Fraternity', but in reality differences are promoted. In the same country still all citizens are not governed by the same laws. People belonging to different religions are governed by different personal laws. Muslims Law is still un-codified. Similarly, only Hindu temples are under governmental control, mosques and churches are completely exempted. The Hindu Religious and Charitable Endowment Act, allow state governments to take over temples and control their vast properties & assets. The State government has right to divert this money collected from temples for any purposes which has nothing to do with temple or religious activities of Hindus.

India's unity and integrity would have been strengthened if we would have avoided concepts of religious minority in Indian constitution. When the constitution is secular and talks about equality among all the religions then what is the purpose of giving special protections to religious minorities without defining them. In the absence of any persecution history of minority in the country special rights to religious minority does not seem logical. It is not good even for religious minorities who are the victim of vote bank politics in the name of minority appeasement. India needs a constitutional amendment in this regard so that divisive special protection to religious minority could be erased and these constitutional paradoxes could be eliminated. ●

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(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.
(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause
(2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.
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 26. Art.29. Protection of interests of minorities
(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same
(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them
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It says: "All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."
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 32. Art.30 gives protection only to religious minorities and they can receive funds from government for running their educational institutions. Any legislation made for social justice is not applicable on minority educational institutions- neither Right to Education under which 25% seats are reserved for weaker sections (Art.21A) nor Reservation of SC/CT/OBC in educational Institutions whether aided or unaided by the government (Art.15(5)). But no such privilege is available to non-minority community. Even if they are not receiving aid from the government they are bound to implement art.21A and art.15(5).
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Prof. Shri Prakash Singh

The Minority Question and Constitutional Provisions

Provisions were made in our constitution to protect the interests of the minorities, but no standards could be set to decide a community's minority or majority status till date. An analysis of how this situation is becoming a threat to our democratic set-up

The Indian Constituent Assembly accepted the ideals of equality and justice. These ideals would be implemented through the Fundamental Rights and the Directive Principles of State Policy in the social, political, and economic domains of the society. The incorporation of the 'Sovereign Democratic Republic' in the Preamble expanded the horizon of the Constitution in the global arena. Through its multi-faceted and successful journey in the last seven decades, the Constitution has also derived from several challenges. History reveals that the culture and traditions of India are holistic and accommodative in nature. Despite this, as this essay would show, the minority question and minorityism stand contrary to the purpose of the Constituent Assembly and that they have remained a challenge for all political and social issues. Today, the minority question has become part of each policy criterion.¹ This article delineates the discourse of minorityism as deliberated in the Constituent Assembly. It also argues that the methods of providing an epistemological ground to the minority rights and constitutional provisions adopted by the intellectuals have been one-sided and misleading and most of

the studies are tilted toward the preservation of minorityism.²

This article is an attempt to explain, through an analysis of the political and constitutional practices, a few fundamental questions, e.g. What are the forms of minority rights and what were the impact and misuse of such rights? The Constitutional provisions prohibit any form of discrimination in favour or against any class on the basis of religion, race, birth, language or colour.³ It was with this underlying vision that the Constituent Assembly rejected the provision of reservation for government posts on the basis of communal representation or religion.⁴ Besides, the principle of democratic equality as enshrined in the Preamble of the Constitution can be effective only when the entire nation attains as equal a level as possible. It was this aim that the framers of the Constitution made some permanent and temporary provisions to bring the socially and economically backward classes at the same level. The Fundamental Rights section of the Indian constitution has provisions to protect the cultural and economic rights of minorities. These are communities which are a minority in number.

Provisions contained in Articles 29 and 30 of the Fundamental

Rights and Article 350 (a) and (b) mention the word minority but do not clearly define who constitutes a minority?⁵ Article 29 (1) of the Fundamental Rights states that “Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same”.⁶ Article 29 (2) says that “No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them”.⁷ Article 30 deals with the right of minorities to establish and administer educational institutions.⁸ Article 30(1) provides that all minorities based on religion or language shall have the right to establish and administer educational institutions of their choice.⁹ Article 30 (1) (a) says that “In making a law providing for the compulsory acquisition of the property of an educational institution established and administered by any minority class referred to in clause (1), the State shall ensure that for the acquisition of such property by such law regulation or the amount determined thereunder so as not to abrogate the right guaranteed under that clause”.¹⁰ Further, the State shall not discriminate against any educational institution in granting aid to educational institutions under Article 30(2) on the ground that it is managed by a minority group based on religion or language.¹¹

It may be mentioned here that the provisions of Articles 29 and 30 are not in conformity with the principle of equality as

provided in the Right to Freedom of Religion (Articles 25-28) as a Fundamental Right. Not only this, the word ‘secular’ added by the 42nd Constitutional Amendment (1976) to the Preamble of the Constitution does not override the explicit provisions of Articles 25-30 or Articles 350/A/B and Article 351.¹² The Supreme Court has upheld that though the provisions of Article 25-26 provide rights to all minorities, it does not mean that the Hindus have been deprived of the freedom of religion (way of life).¹³ It is worth mentioning here that there was a detailed discussion on this subject in the Constituent Assembly from August 14, 1947 to August 30, 1947, which is available in the form of Section 5. The word minority was neither defined by the Constituent Assembly, and nor after seven decades of independence. Whereas in this context T. M. A. Pai Foundation vs. the State of Karnataka (1973) 4 S.C.C. 286, a special bench of 11 judges had ruled in 2002 that all citizens have the right to establish and administer educational institutions.¹⁴ The

rights enshrined in Article 30 are not only for the minority classes but for all. In the same decision, it has been said by the Supreme Court that it will be the task of the states to explain who is the ‘linguistic minority and religious minority’.¹⁵ Apart from this, the Kerala Education Bill (1956), *St. Stephen's College vs. University of Delhi* (1992),¹⁶ *Islamic Academy of Education vs. the State of Karnataka* (2004),¹⁷ *P. A. Inamdar vs. the State of Maharashtra* (2004–2005),¹⁸ etc., are several minority-based cases in which the Supreme Court has given its verdict on the minority question. Consequently, the report of the National Commission for Religious and Linguistic Minorities in 2007 re-evaluated the term “minority”. In this process, three extensive aspects of the word minority were identified.

First, in the ‘colloquial’ language, the term “minority” refers to a group whose population is less than half of the total population, and which is different from ‘others’ especially in terms of caste, religion, traditions, and culture, language,



etc.¹⁹ In the report, the use of two words, first 'colloquial' and second 'other' itself reflects social and political contradictions. This criterion could be visualized as the capacity to transform social democracy into politics of self-interest,²⁰ where the idea of equality is not accepted as a democratic value but is made part of the political strategy. To legitimize the concept of "colloquial", reference was made to the report of its Sub-Committee on Minority Rights of 1946, which recognized those non-dominant groups of the population as minorities who maintain distinction on the basis of ethnicity, religion, and language. This definition of minority makes the word even more controversial. Under the provisions for notified communities in Article 2(7), the Union Government in a notification dated 23-10-1993 stated that the Muslim, Christian, Sikh, Buddhist, and Persian communities shall be treated as minorities for the purposes under this Article.²¹

The second definition is associated with citizenship and it explicitly mentions the following four rights:

1. A citizen has the right to retain his language, script, or culture
2. All religious and linguistic minorities have the right to establish and administer educational institutions of their choice.
3. It is the right of the educational institutions against discrimination by the state in the matter of aid to educational institutions (discrimination on the ground that it is in the management

While defining 'culture' in the Constituent Assembly, Prof. K.T. Shah (Member, Drafting Committee) had said that 'Culture is not a one-sided subject made up of language, region, script, etc. but it is a vast ocean, which includes the material and spiritual heritage of any community. Whether we think of art, science, religion, or philosophy, everything is accommodated in culture. However, political compulsions and politics of power gave importance to religious minorityism and a system based on differing modes of worship. This resulted into the deep-rooted problems of minorityism, appeasement and conversion

of a minority based on religion or language).

4. Right of citizens against being denied admission in an educational institution maintained by the state or aided by the state.²²

The civic definition of minority includes institutions, administration, and state-funded activities. However, this aspect should also be observed separately.

Third, there is ambiguity of religion in the term minority. The minority has often been seen on the basis of religion in India. But the reality is that the minority word did not get mentioned in the Indian Constitution.²³ Different political interests and discourses have made the use of the term very frequent and prevalent. Whereas in Indian traditions, *dharma* or religion is not confined to any particular community but applies to all. It is an integral part of one's duty and state administration. It is this relationship that should be understood as the culture of India.

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Therefore, in order to attain justice, there is a need to revisit Article 30 (1) under relevant provisions of the Constitution and to treat the minority question as a subject of the state concerned. The idea of linguistic minority mentioned in Article 30 is vital because in independent India, the states have been reorganized on a linguistic basis but the idea of the linguistic minority is almost forgotten in contemporary times. Article 30 provides exclusive rights to the religious minorities but it excludes the majority of Hindus who have maintained their unity

despite diversity based on caste, region, language, and methods of worship. As a result, these rights are not available to the Hindu society which is available to the minorities. One is included while the other is excluded. The provision provides that the minority communities can impart education on their religious texts and language in self-run institutions, but according to the spirit and desire of Article 28, religion cannot be taught in the state-run institutions. As per provision of Article 30, minority institutions are allowed to establish and administer group institutions related only to religious belief and script, but they are taking advantage of this constitutional provision to create institutions of vocational, technical, and medical education. Hindu society is not at a liberty to form educational institutions for the education of its own way of life, religious policy, and scripts or language. Neither is there any provision to impart such education in the state-funded institutions. Obviously, such discrepancies have caused lot of damage.

The perspective of the Constituent Assembly was lucid. Almost all the members of the Assembly opposed appeasement. Collective efforts were also made to avoid the use of the words— secular and minority. In reacting to the proposal of Prof. Nazirul Hasan, member of the Constituent

Assembly, India's first Home Minister Sardar Patel said:

“The new nation of India will not tolerate any destructive tendencies, if nevertheless, the same path is to be adopted which led to the partition of the country, then there is no place and corner available here for those who want to re-partition and sow the seeds of division...”

Sardar Patel continued:

“But I can see now that same strategies are being adopted again which were adopted when the system of separate electorates was implemented in the country. Even though there is lot of sweetness in the speech of the speakers of the Muslim League, there is a lot of poison in the remedy adopted.”²⁴

In Sardar's statement, there is concern about a particular religion, pointing to which Dr. Syama Prasad Mookerjee also said on 17 December 1946: "When we say something in the context of minority, there is always an impression that Muslims are the only minority which exist in this country. I come from the badly-affected province of Bengal and wish to remind this Assembly that Hindus are a minority in at least four provinces of India".²⁵ The minority is becoming an identity in itself whose spread is in opposition to the majority. Many political parties, especially Congress, have used it to serve

their own political interests. Rajni Kothari also believes that the inertia of the debates on minority and majority is expressed by political parties in such a way that the work of secularization has been completed. This concern was also felt in the Constituent Assembly when Pandit Gobind Ballabh Pandit said that we cannot mark any community as an identity, rather citizenship will be the first identity for Indians, which was being prepared on the basis of the Constitution. This Constitution will be the basis of the identity of the people and they can be seen only as citizens. Citizenship is the social pyramid for us.²⁶ It is a fact worth noting that in the entire debate only a certain kind of mode of worship has been considered a minority.

From an analysis of the constitutional provisions, it is clear that like other countries, the question of minority plays a special role in the political processes in India as well. However, in India, the question of minorities and their problems is used as a pretext to polarize specific religious community which has in turn become a threat to the very structure of democracy. To resolve this crisis, it is necessary that Articles 29 and 30 are re-interpreted so that the far-reaching goal of the Constituent Assembly are attained and that this provision of the Constitution becomes equally useful for all. ●

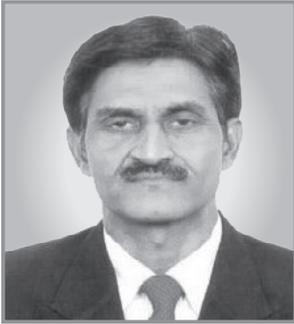
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2. This type of inclination has only made the concept of minority in the social sciences to their rights filled with doubts. Due to which a list of rights is

made, but what is the basis of saying whom the minority says, the assessment of all these questions disappears from the current political

- debates or there is an attempt to escape vfrom them. Look for Kwame Anthony Appia (1997). *Multicultural Misunderstanding*, New York: Review of Books, 44 (15) : 30-6, as well as the book by Phillips point to a particular debate whose main basis is also the analysis of personality as a political dimension. See mainly Chapter Two. Anne Phillips (2007). *Multiculturalism without Culture*. Preston: Preston University Press.
3. For details, see Article 14; Braj Kishore Sharma (ed.), *the constitution of India: an introduction*, PHI: New Delhi, 2019.
 4. Ibid.
 5. Shri Prakash Singh (2015). *Dr. Ambedkar: Alpasankhyak Prashn Evan Sanvaidhaanik Praavadhaan*. New Delhi: Anamika Publication, Page No. 116-117 Also it was interesting to see the Constituent Assembly debates when Muslim members attacked the Parliamentary Government by saying that true democracy can accept only the Swiss system because it has instead of the dictatorship of the majority, the representatives of all the communities are given a place. So Ambedkar had replied that his interests would be fully protected in the new schedule. For this, written provisions will be made for the minority in the executive. Along with the Drafting Committee also made the President and Parliament a participant in its jurisdiction. The drafts made for such discussions point towards the new debate of the proposed schedule of the committee. See the printed list of 1948; B.Siva Rao, *Selected Document* (iii).
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 18. <https://indianlawportal.co.in/p-a-inamdar-and-ors-v-state-of-maharashtra/#:~:text=lt%20is%20a%20case%20decided,for%20admission%20into%20such%20colleges.>
 19. Report, Ministry of Minority Affairs, Government of India, p. 3.
 20. For a theoretical understanding on this aspect, we can consider Tauqueville's statement that there are only two ways to establish equality in the political world. One, every citizen should be given his rights or no one should have any. See Tauqueville (1958). *Democracy in America*. Bombay: Pearl Publications Private Limited. Page No.64 This situation in India can be cited in the form of a Hindu minority migrating from Kashmir. This was marked as a crowd instead of a citizen.
 21. Report, Ministry of Minority Affairs, Government of India, p. 3.
 22. In the report, this classification has been made under Articles 29 and 30 of the Indian Constitution. Because the report clarified with regard to the legal framework that law enforcement agencies have maintained the illusion that the Protection of Civil Rights Act 1955 has been enacted only to provide protection to the Scheduled Castes in respect of enforcement of offenses related to untouchability. Therefore, there is a need to make the process of law more sensitive in this context. See Report Ministry of Minority Affairs, p. 7.
 23. Ibid. p. 12.
 24. This statement of Sardar Patel was given in the debate on Fundamental Rights in the Constituent Assembly, see for detailed discussion. Official Report of the Debates of the Constituent Assembly of India (2015 Hindi Edition) Volume One or Book No. 1. Page No. 17
 25. Ibid.
 26. Constituent Assembly Debates (English Version) Part 2. Page No. 332



Prof. Amar Pal Singh

Colonial Underpinnings of Communal Politics in India

The politics focused on religious appeasement as we see it today in the country, has its roots in the plans of communal governance that were designed to postpone India's independence for as long as possible. An overview of the past

The roots of our present-day ills, a lot many times, are said to be buried in the past. Something that has been cannot be changed, because on the highway of time, there is only one-way traffic, one can only suffer the outcomes of the events that have already happened. India's endemic communal polarization appears to be such a phenomenon, which has been there with us due to some tricky events of the past and for the current generations, it is a fait accompli, which they either love it or hate it, shall have to just face it. A birds eye-view of Indian history would tell us that this kind of a polarization was never a part of the Indian lifestyle. India has been a country which has not just tolerated the diversity, but celebrated it; as against the much-hyped western traditions where diversity has been presented to be marginal or even pathological at one time, in India the diversity of religious faiths has been openly embraced and has been part of India's traditional pattern of living. The equilibrium of India's cultural life was fractured by incessant onslaughts of foreign invasions and brutal suppression of local religions by imposition of jaziya tax and later by active British policy of divide-

and-rule that became the hallmark of colonial rulers for perpetuating the thralldom thrust on Indian people.

Onset of Communal Divide

The early 20th century emergence of communal problems which gave rise to minority issues and led to the partition of the country in 1947 lay deeply embedded in the British policy of communal electorates and the communal politics of Muslim league. The negotiations on constitution making from the beginning of constitutional agitations of late 19th century, culminating into Morley-Minto Reforms and Montagu-Chelmsford Reforms were consistently marked by a conscious cultivation of differences by the colonial government amongst Hindus, Muslims and Sikhs, which led to the formation of Muslim League, central Sikh League and Hindu Mahasabha. The Indian National Congress was only one of the voices that were contesting within the colonial constitutional framework for creating a space for all communities within a single constitutional system.

The rapid polarization that commenced towards the last decade of 19th Century, led to a steady decline of syncretic faith

Manthan

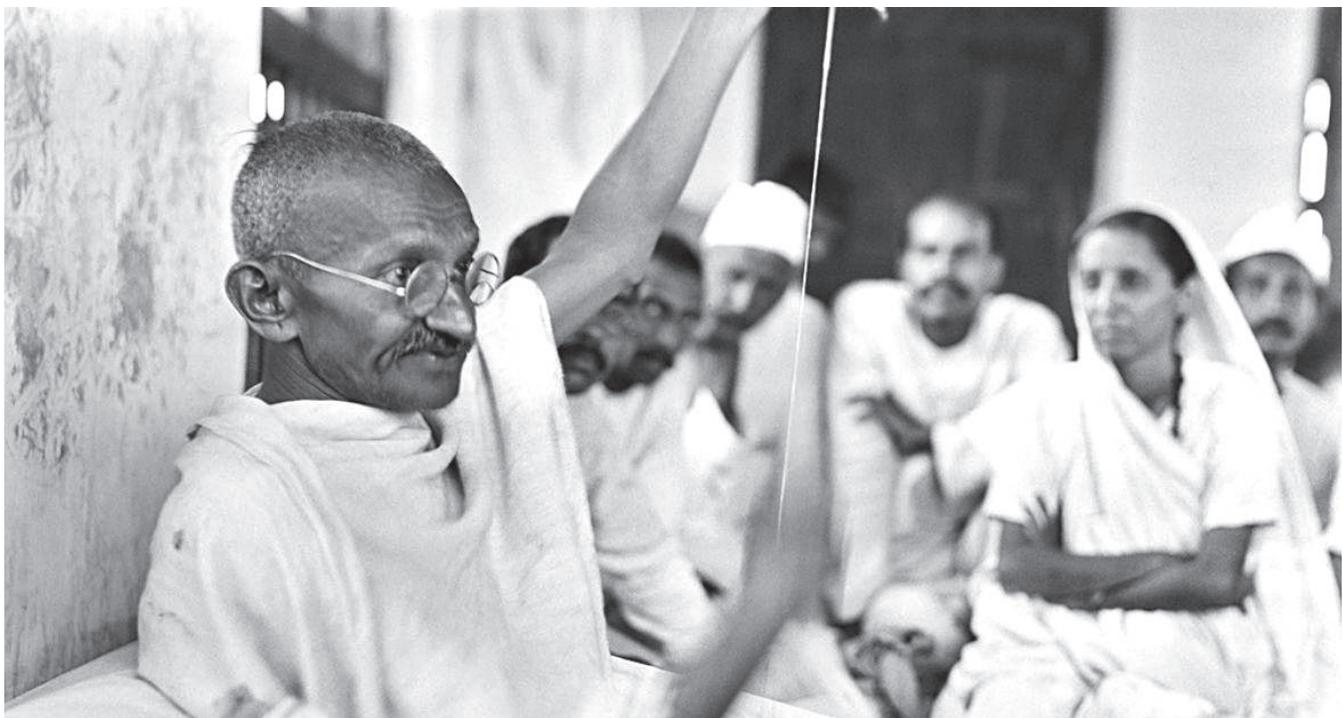
at the grassroots level. A wave of Islamisation that started emerging during this phase in Bengal province resulted in a gradual rejection of the facets of culture that were essentially Bengali. Similar trends were visible in United Provinces and Punjab, resulting into an erosion, if not a complete breakdown of grassroots syncretism. The Sufi and Bhakti traditions were now on the verge of extinction or at best existed in grand isolation.¹ It is in this background that the partition of Bengal was planned by Lord Curzon. The widespread unrest that followed was sought to be handled in two different ways—while harsh measures were used to quell the unrest, the government also decided to ween away the moderates by offering some reforms. Lord Minto on his arrival in India, met Agha Khan who presented the demand of separate electorates for Muslims. The official stand of Government of India was that

territorial representation was not suited to the people of India, representation by classes or interests is the only practicable method of embodying the elective principles in the constitution of Indian legislative councils.

Separate Electorates: The Genesis of the problem

Morley-Minto reforms, therefore, introduced the idea of separate electorates for different communities, classes and interests. The Indian nationalists were very critical of this as they knew that it would hamper the growth of national unity and perpetuate communal distinctions. They correctly treated this to be a deliberate political strategy of Britain to weaken national unity.² Lord Olivier wrote in 1926, “No one would deny that on the whole, there is a predominant

bias in British officialdom in India in favour of the Muslim community, partly on account of closer sympathy, but more largely as a make-weight against Hindu nationalism”.³ Evidently, the maintenance of British paramountcy being the dominant urge of British administration, that precisely determined the political strategies of the colonial government. Both Lord Minto and Mr. Morley openly used the idea of counterpoise in their letters and circulars. “Today the new constitution of India rests on a perfect equipoise of counterposing policies”. H V Hodson justified the British stand, “The British could not have divided and ruled unless the ruled were ready to be divided and that the emergence of the problem was a necessary consequence of the difference in religion, culture, history, tradition, political, economic history, and interest of the different communities, more particularly of Hindus and



Muslims⁴.

No wonder that the virus of communal representation became one of the major stumbling blocks in national unity. The Lucknow pact was a concrete manifestation of the communal politics that had been going on for several years, nourished and promoted under the patronage of Colonial government. During the second decade of 20th century, the Congress was still embedded in what was known as 'Constitutional agitation' and their intents were defined in terms of linear constitutionalism imagined within the construct of petition documents. Thus came a pact with the Muslim League as their fellow constitutionalists, which paved the way for separate electorates to secure Muslim representation in the Central Legislature. What was disconcerting, however, was the recognition that Muslim League got the tag of representative of Muslims in India, as opposed to the longstanding Congress stand that it represented the whole of Indian population, including Hindus and Muslims. This also opened the way for Akalis and later Dr. Ambedkar to argue for separate electorates for Sikhs and Dalits, involving the idea of reservations of seats for a community. This led to the emergence of the idea of cultivating electorates in order to secure seats in councils and assemblies. Thus came the emergence of regional parties, caste organisations and religious and cultural bodies for the purpose of ensuring their due representation in legislative bodies. Interestingly, the Gandhian movement of mass struggle was simultaneously

After the first world war, India entered a new phase of politicking. With the advent of Gandhi and mass movements, the national politics came to be inhabited by those who were gripped by nationalism. Liberals, then left the Congress, and Jinnah was also not far behind, who believed that the emotional energies released by the Khilafat agitation and non-cooperation movement could never be reconciled under the pressure of this mass politics

emerging as a phenomenon which would impact the political events in the days to come. The question as to what led Bal Gangadhar Tilak to negotiate and accept the separate electorates of Muslim league, is mired in confusions and controversies, but it was probably to bridge over the Surat split of 1907 which had virtually crippled the congress throughout these years, and the moderates and extremists came together on the same platform for the first time after Surat split, thinking that their united face would pave the way for Swaraj in the days to come.

The Advent of Gandhi and Mass Movement

After the first world war, India entered a new phase of politicking. With the advent of Gandhi and mass movements, the national politics came to be inhabited by those who were gripped by nationalism. Liberals, then left the Congress, and Jinnah was also not far behind, who believed that the emotional energies released by the Khilafat agitation and non-cooperation movement could never be reconciled under the pressure of this mass politics. Muslims in general had come to realize their importance from their experiences of communal electorates. They had found that

the Government of India was much too glad to please them. This made them conscious of their position. The Montagu-Chelmsford Reforms of 1919 had further continued with communal representation, and this time the Muslim community bore a separate representation even in those provinces where they were in majority. At the same time, they were given weight age over and above their numerical strength in those provinces where they were in minority. According to R. Coupland, "these were far more substantial concessions that the Muslims had been given by Morley and Minto to secure their acquiescence in the reforms of 1909.....the pact concluded between the congress and the League was the most striking expression of Indian nationalism so far achieved within the bounds of British India." The communal question had come to stay in India, with the new measure put in place by the colonial government.

This satisfied none on the ground, and therefore the law met with universal condemnation. However, the publication of Rowlatt Committee Report had vitiated the environment. The recommendations of the Rowlatt committee were incorporated in two bills, whereby the judges were empowered to try political

cases without juries in the notified areas and provincial governments were given the powers of internment. Thereafter happened the Jallianwala Bagh tragedy, martial law was imposed and several leaders were arrested. Subsequent events in the international realm brought the Congress and Muslims together. The Muslims in India protested against the hard terms imposed on Turkey after the first world war. Mahatma Gandhi joined hands with Muslims and started his non-violent, non-cooperation movement for the redressal of Khilafat and the wrongs of Punjab, and establishment of Swarajya in India. The movement went on properly for two years and then after the famous Chauri-Chaura events, the movement was withdrawn by Mahatma Gandhi.

In the aftermath of the collapse of non-cooperation movement after the Chauri-Chaura episode, most of the leaders involved in mass struggle including Mahatma Gandhi were jailed, and then emerged the Swarajists under the leadership of C. R. Das and Motilal Nehru,

who began re-engaging with the re-emerged constitutional space. But it was not the same space which was occupied by Indian National Congress in the name of 'constitutional agitation', as the questions of communal representation and caste representation had now become part of the discourse. After the Non-Cooperation movement, the Hindu-Muslim unity, which had been appreciably built up, began to disintegrate. The national unity increasingly began to give way to communal hostility. The All India Muslim League, which had already emerged as a Muslim counterpart of Congress, had decided in 1924 that in any constitutional dialogue, the form of government would be a federation, with provincial autonomy and constitutionally guarded Muslim majority in Punjab, Bengal and North Western Frontier Province. Maulana Muhammad Ali and Maulana Shaukat Ali too had hardened their stance, and opposed Gandhi. Riots spread during the 1920s, which compelled the leaders in both communities to advocate a

dialogue process for settling disputes, as each community had its own street strength and had the ability to retaliate.

Lord Birkenhead threw a challenge for the Indians to produce a Constitution, and efforts were being made to come up with something substantial. The 'Delhi Muslim Proposals' were a bright spot in that context, wherein a proposal for reservation of seats was suggested for a compromise over separate electorates. The Indian National Congress accepted this proposal of reservation of seats for Muslims in Central and Provincial assemblies in its 42nd session at Madras. The National convention in 1928 on these proposals evolved in the form of Nehru Report, which was basically a response to Simon commission. Unfortunately, nevertheless, due to the obstinate attitude of people like Jinnah and Fazlul-Haq, the Nehru Report became a document of disagreements.

Onset of a fractured future

The Simon Commission Report was finally published in 1930 and was unanimously condemned by all Congress leaders. When the British Govt organised the First Round Table Conference, the congress could not be represented as most of congress leaders were in prison. As nothing worthwhile could be achieved in terms of the future Constitution of India in the absence of Congress leaders, the efforts of Tej Bahadur Sapru and M. R. Jayakar bore fruits and the famous Gandhi-Irwin Pact was concluded, Congress leaders were released from prisons, the Civil Disobedience movement was withdrawn and Gandhiji

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agreed to be a part of the second Round Table Conference at London. Nothing worthwhile, nevertheless, could be achieved as Jinnah refused to cooperate and Samuel Hoare's role, who was Secretary of State at that point of time, ensured that no substantial agreement could be achieved. Many issues came up for discussion, but no agreement on anything was arrived at. Consequently, most of the work was then referred to various committees. On his return from London, Mahatma Gandhi was arrested and many of the rank and file of Congress were put in prisons. Ramsay Macdonald made it clear that if the various communities in India did not come to any definite settlement, the British Government would be forced to give its own award.

Thereafter came the Communal award of 1932. The award provided for separate electorates for Muslims, Christians, Sikhs and depressed classes in Hindu community. Gandhiji commented that this award seeks to create such divisions in the country that it can never stand up on its own legs. In his letter written to Secretary of State, Samuel Hoare, Gandhiji had warned him that he would resist with his life the grant of separate communal representation to the depressed classes. Gandhiji also wrote to Ramsay Macdonald, but it had literally no effect on him; Macdonald took the matter lightly and wouldn't have bothered if the Mahatma had died.⁵ When the British Government refused to move in the matter and the Gandhiji's condition became serious on account of his fast unto death, the Indian leaders

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made up their mind to get the award modified by mutual agreement. Negotiations took place with Dr. Ambedkar and the famous Poona pact was signed, whereby seats were reserved for the depressed classes out of the general electorates in place of separate electorates for them.

Another attempt was made in November 1932, which Shaukat Ali called the "Swadeshi Round Table Conference", at Allahabad under the chairmanship of C. Vijay raghavachariar, who stated in his opening address that they had met "to consider the situation created by the Communal Award and Poona Pact."⁶ The gathering of leaders from all parts of the country happened at the residence of K. N. Katju at Allahabad. Dr. Ambedkar wrote a letter to the conference in which he said emphatically that there was no greater stumbling block than disunity. Never before in the history of negotiations between communities and castes, was so much put forward on the negotiating table and so much lost.⁷ Some agreements were arrived at; however, the agreements had to be ratified by the regional bodies of the communities and the ratification process, having run into a series of suggested amendments that the conference could not resolve,

the draft of the agreement ultimately collapsed.

It may be worth its while to recall that the introduction of a separate electorate for Muslims and other minorities in Indian Councils Act, 1909 was confirmed by Lucknow Pact of 1916 between the Congress and the Muslim League—a pact of which Jinnah was the main architect. However the Nehru committee rejected the amendments proposed by the Muslim League, which would have retained separate electorates with reservation of seats. Notwithstanding that, Jinnah pleaded for separate electorates if revolution and civil war were to be avoided. The Government of India Act, 1935 confirmed separate electorates for Muslims and Minorities (other than schedule castes) as a necessary safeguard for minorities. As a further protection for the minorities, the Government of India Act, 1935 imposed upon provincial governors a special responsibility, inter alia, for the purpose of safeguarding of the legitimate interests of minorities. In the discharge of their special responsibilities, the Governors were to exercise their individual judgement. It was felt that with separate electorates, reservations of seats and Governor's special

responsibility to protect the rights of minorities, those rights were reasonably safeguarded.⁸

What transpired in the aftermath of elections under Government of India Act, 1935 was that the Governor's special Responsibility was promised not to be utilised for the purpose of ensuring smooth day-to-day governance, sans any interference from the Governor. However, in the aftermath of elections in UP, the understanding emerged that the Congress will share power with the Muslim League. Despite this, Congress refused to form a coalition government with Muslim league and the whole idea collapsed. V. P. Menon wrote to Evan Jenkins on 7th Jul 1945, observing that up to 1935, Muslims generally speaking were under the impression that their interests would be safeguarded if they could get adequate representation in the legislatures. Thanks to the policy of Congress of excluding all the other parties from provincial executive, the minorities learnt that the majority part in the legislature could set at naught the wishes of the minorities and that representation in the legislatures would not alone be

a sufficient safeguard. This was the real reason of Jinnah's cry for Pakistan. "Exclusion from a share in the power was the real foundation on which the present position of the Muslim League was built up. It was therefore not surprising that the cry for Pakistan was more vociferous in the provinces in which the Muslims were in a minority than in the majority Muslim provinces".⁹

Towards Freedom

As Lord Wavell assumed the Viceroyalty, he made some sincere attempt to resolve the deadlock. The Gandhi-Jinnah talks in February 1944, which went on for 18 days resulting in failure, was one such attempt made by Lord Wavell. Congress criticized this dialogue as inopportune as enhancing Jinnah's prestige. Desai-Liaquat Ali Pact met the same fate. Wavell made another attempt during September 1944, and he wrote in a letter to Churchill that, what he had in mind was the formation of a provisional political government of the type suggested in the Cripps declaration, within the present Constitution, coupled

with an earnest but necessarily simultaneous attempt to devise the means to reach a constitutional settlement, ".....to be effective, any move we must make, must be such as to capture Indian imagination. If India is not be ruled by force, it must be ruled by heart rather than by head. Our move must be sincere and friendly".¹⁰

Unfortunately, however Wavell's ideas did not find favour in the Government and Wavell got no reply to his proposals from the British Government which tried to put it off till June 1945, when he visited England to explain his proposals.¹¹ After protracted discussions at India Committee, he got some clearance and back in India, on 14th of June he made his proposals for forming a new Executive Council, which, apart from a Commander in Chief, would consist entirely of Indians, within the framework of the Government of India Act, 1935, but it could consider the means whereby agreement could be reached for framing a new Constitution. He announced the release of Congress leaders who were in detention those days, and the conference was held in Shimla on June 25, 1945. This conference too could not yield any result, and this was followed by a landslide victory of the Labour Party in England and Atlee became the Prime Minister.

Then came the surrender of Japan and the demand by various parties in India for elections to the provincial assemblies as the war had come to an end. Towards the end of December 1945, the results of elections to the Central Legislative Assembly had become available

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and the partition appeared to have become complete. Muslim League won every single Muslim seat and so did Congress in the Hindu-dominated constituencies. The Cabinet Mission came in this background. The Cabinet Mission and the Viceroy had called a conference at Shimla, which came to be known as the second Shimla Conference, wherein the representatives of Congress and Muslim League were invited for discussions.¹² First meeting happened on the 5th of May, 1946, but the second meeting planned on 6th May could not take place as the bitterness and differences between the Congress and Muslim League on the question of parity had become irreconcilable. It was just a matter of time that Jinnah would call for direct action and the partition would happen leading to unprecedented violence and bestiality that was never witnessed in this part of the world. When the Constituent Assembly was finally elected, only two parties mattered—Congress and Muslim League, and it was almost a foregone conclusion that Muslim League would not attend the Constituent Assembly, which met on 9th December, 1946.

While the role of colonial system in fostering and promoting communal polarization is a matter of record, the role of the then existing political establishments was equally significant. With the benefit of the hindsight, one may blame this or that party for partition and the communal questions that continue to haunt contemporary India as well, but as Constituent Assembly commenced its work, the minority question before it was as big it was ever during the preceding three decades

Conclusion

While the role of colonial system in fostering and promoting communal polarization is a matter of record, the role of the then existing political establishments was equally significant. With the benefit of the hindsight, one may blame this or that party for partition and the communal questions that continue to haunt contemporary India as well, but as Constituent Assembly commenced its work, the minority question before it was as big it was ever during the preceding three decades. And nevertheless, we decided to “place our faith in the stars and divine revelations”, assuring that our so-called secular credentials were put on a high pedestal, no matter the answers to the festering questions that continue to beset us, which might turn

into ulcers someday, making another surgery inevitable. No wonder that the twenty-first century India is as much groping in the dark with regard to the minority questions, as was the India hundred years back. It is not, however, an irreconcilable fact, and with the evolving political discourse, attempts will continue to be made in the direction of resolving this deep-seated discord that has mired the all-embracing syncretic tradition of this land. However, it must be remembered that history has its own role to play in such long-standing questions and a truly holistic and permanent solution would only come out of a churning based on an appreciation of this history and understanding how the historical conflicts formed the present questions. ●

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Prof. Sriprakash Mani Tripathi

Constitutional Relevance of ‘Being Minority’

Indian Constitution has bestowed adequate amount of rights on the minority communities of our country. Here is an account of the Constitutional provisions as well as the judicial verdicts delivered from time to time with regard to minority rights

The word ‘minority’ connotes a group of people whose population is less than half of the total population and are distinctly different from others in race, religion, culture, tradition, language, etc. Special Rapporteur of United Nations Human Rights Council (UNHRC) Francesco Capotorti had in 1977 defined ‘minority’ 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.”[1]

Independent India’s first Education Minister Maulana Abul Kalam Azad had said in his presidential speech at the Ramgarh session of the Congress in 1940 that “Politically speaking, the word minority does not mean just a group that is so small in number and so lacking in other qualities that give strength, that it has no confidence in its own capacity to protect itself from the much larger group that surrounds it. It is not enough that the group should be relatively

the smaller, but that it should be absolutely so small as to be incapable of protecting its interests.”[2] In the Oxford dictionary, ‘minority’ has been defined as “the smaller part of a large group or a small group within a community or country that is different from others because of race, religion, language or from the point of view of their political context.”

It has not been possible to have a universally acceptable definition of ‘minority’, nationally or internationally, even after intense efforts of justices, jurists or political leaders. No definition or interpretation of ‘minority’ has been given even in the human rights related UN Universal Declaration of 1948. Article 27 of the resolution passed by International Covenant on Civil and Political Rights (ICCPR) in 1966 too did not offer any definition of ‘minority’. It only mandates “the rights of ethnic, religious and linguistic minority to enjoy their own culture, to profess their own religion, and to use their own language.”[3]

In the Indian Constitution, the word ‘minority’ or, for that matter, its plural ‘minorities’ has been used in Articles 29 and 30 as well 350(A) and 350(B), but nowhere it has been defined. In Article 29, it is said that “a category of citizens... which has

its separate language, script or culture.” It may mean the whole community which can be seen as minority community or group within the majority community. In Article 30, the minorities have been mentioned in two special categories – religious and lingual. The other two Articles 350(A) and 350(B) pertain to only linguistic minorities.⁴

Regarding the national level minorities in India, all other communities except the Hindus are considered as ‘minorities’ because almost 80 per cent population of the country follow Hinduism. Muslims are the largest minority community at the national level while population-wise, other minority communities are miniscule. The population of the minority communities in India as per 2011 census has been given below (Table No. 1).

Table No. 1

Division of population of India on the basis of religion and their percentage

Sl. No.	Religious Community	Population (in crore)	Percentage
1	Hindu	96.63	79.8
2	Muslim	17.22	14.2
3	Christian	2.78	2.3
4	Sikh	2.08	1.7
5	Buddhist	0.84	0.7
6	Jain	0.45	0.4
7	Others	0.79	0.7
8	Not revealed	0.29	0.2
Total		121.09	--

Source: Census of India – 2011

It is clear from the above table that after the Muslim community (14.2%), Christian community (2.3%) comes in the second position and Sikh community stands at third position (1.7%) in India whereas all other minority

communities are quite negligible in size.

As far as linguistic minority is concerned, there is no majority community at the national level in India while the status of the minority community has to be ascertained basically at the level of the states and Union territories. At the level of the states and Union territories, the Muslim community is in majority in Jammu and Kashmir as well as in Lakshadweep. In the state of Punjab, Sikh are the majority community. Similarly, Christian community is in majority in the states of Mizoram and Nagaland. However, none among the other minority communities is in majority in any of the states and Union territories.

As per the National Commission Minorities Act of 1992, ‘minority’ has been defined as “for the purposes of this Act, minority means a community notified as such by the Central government.” Working under the provisions of Article 2(7), the Central government had notified on 23rd October 1993 that Muslims, Christians, Sikhs, Buddhists and Parsis would be considered as “minority communities” for the purposes of the Act.⁵

In the ‘TMA Pai Foundation versus State of Karnataka’ case, an 11-judge Constitutional Bench of the Supreme Court ruled that the minority communities on the basis of sect and language would be identified on the basis of their proportion in the population in different states.⁶ The apex court has thus ended the compulsion of the states to accord a community minority status on the basis of their status at the national level. As a result,

Hindus will now be regarded as minorities in the States and Union territories like Jammu and Kashmir, Lakshadweep, Punjab, Mizoram and Nagaland. In the ‘Bal Patil versus Union of India’ case (2005) also, a 3-judge Bench of the Supreme Court while following the verdict in the TMA Pai case, ruled that the minority status of a community will be decided at the state level and not at the level of the whole country. The petitioner in this case, an organisation of the Jain community, had filed a plea in the Bombay High Court seeking direction that it be declared as ‘minority’ under Section 2(c) of the National Commission Minorities Act. In the judgement, however, the Jain community was not considered as a minority one.⁷ However, the Jains have been accorded minority status in many states like Himachal Pradesh, Jharkhand, Madhya Pradesh, Uttar Pradesh and Uttarakhand. In another verdict in 2006, another Bench of the apex court while upholding the dignity of the statutes of Uttar Pradesh, accorded minority status to the Jains.

In the ‘Dayanand Anglo-Vedic (DAV) College Trust and its Management Committee versus the State of Maharashtra’ case, the Supreme Court ruled that language is the basis of the formation of different states and the linguistic minorities will be identified as per the respective state or UT where the educational institution is going to be established. The situation in relation to religious minorities is also similar to that because both are equal under Article 30 and institutions should be established not only by the persons

who belong to the minority communities. Article 30 should not be interpreted in a manner that people, who established an institution in a state, can run similar institution in another state where they are not minorities.⁸

Constitutional Relevance of Minority

India is a multi-religious and multi-lingual country. People belonging to different religions like Hindus, Muslims, Christians, Sikhs, Buddhists, Jains, Parsis reside here. The minorities can be divided generally into two categories: 1. Religious minorities, and 2. Linguistic minorities.

In the context of protection of the minorities, provisions have been made in Chapter-III and -IV as well as in Schedule-VIII of the Indian Constitution for safeguarding languages. While presenting the historic Objective Resolution in the Constituent Assembly under the Cabinet Mission Plan on 13th December 1946, Nehru said that “all the people of India shall be guaranteed and secured of justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith worship, vocation, association and action, subject to law and public morality ; and adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes.”⁹

With an aim to protect the rights of the minorities, the Constituent Assembly had constituted an Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas under the chairmanship of



Sardar Patel. Various sub-committees were also formed under it like Fundamental Rights Sub-Committee headed by J.B. Kripalani and Minorities Sub-Committee chaired by Harendra Coomar Mookerjee. The debates in the Constituent Assembly were influenced by the public opinion. The arguments given by different sides during the deliberations on various subjects were published in the newspapers and a public debate was held on the draft proposals. To create an atmosphere of community participation, suggestions were also invited from the general public. Many linguistic minorities were seeking protection to their mother tongues while the religious minorities wanted to safeguard their special interests. The Constituent Assembly debated the public discussions on many important issues regarding cultural rights and social justice. Extensive discussions were held on questions like how to determine the rights of the citizens, should the oppressed classes be given special rights, what are the rights of the minorities, who should

actually be called minorities, etc.

B. Pocker Bahadur of Madras (now Chennai) had delivered an impactful speech on 27th August 1947 in favour of separate constituencies for minorities. Bahadur said that “minorities are everywhere and even if we want, we cannot remove them. So, we need to have such a political system wherein the minorities too can stay along with other communities in harmony and differences of opinion among them remain at a minimal level. For this, it is necessary that the minorities have full representation in the political system, their voices are heard and their thoughts are taken care of. To ensure an effective participation of the Muslims in the governance of the country, there is no way other than having separate constituencies for them.” However, such arguments given in support of separate constituencies irked the nationalists. They had a feeling that there was a British plot behind this move for separate constituencies to divide the people. Addressing Bahadur,

R.B. Dhule had said, “The Britishers are playing games in the name of protection. They have enticed you (the minorities) on this pretext. Leave this habit now... There is nobody to mislead you now.”¹⁰

Due to Partition, the nationalist leaders were even more annoyed with the idea of separate constituencies for Muslims. They were apprehensive of constant violence, riots and civil wars. Sardar Patel said that “the concept of separate constituencies is a poison which has assimilated in the political culture of our country.” He was of the opinion that this was such a demand that has brought one community face to face with another community, divided the country, created bloodshed and became the cause of Partition. He said, “If you want peace in this country, discard this separate constituency demand forthwith.”¹¹

Replying to the separate constituency demand, Pandit Govind Vallabh Pant declared the proposal in dangerous not only for the nation but also for the minorities. He was of the opinion that this was suicidal demand which would permanently isolate the minorities, weaken them and deprive them of effective participation in governance.”¹²

Not all the Muslim members in the Constituent Assembly were in favour of the separate

constituency demand. The lone woman Muslim member in the House Begam Ezaz Rasool too felt that separate constituencies for Muslims would be suicidal because the minorities would be cut off from the majority community. By 1949, most of the members of the House had unanimously agreed that the proposal of separate constituency was against the interest of the minorities. Instead of that hence, the Muslims should play active role in the democratic process so that they would have a decisive voice in the political system of the country.

Provisions in Indian Constitution to protect minorities

There are a lot many provisions in the Constitution of India for the protection of the interest of the minorities. Articles 15 and 16 of the Constitution prohibits the State from discriminating any citizen on the basis of religion, race, caste, gender, domicile or nativity in any of its action in general (Article 15) or with regard to any appointment or posting in an office in a State (Article 16). Noteworthy, ‘equality’ in Indian Constitution means ‘relative equality’. Hence, the Constitution allows for positive discrimination in favour of the weak, deprived and backward classes. Though the minorities

have not been mentioned in any special context in Article 15, those minorities who are socially and educationally backward clearly come under the purview of “any class who are socially and educationally backward” mentioned there as well as under the purview of “any class of backward citizens” mentioned in Article 16. In fact, the Central government as well as the State governments have included the religious minorities in the list of backward classes and have arranged reservation for them.¹³

In the case of ‘Indira Sahani vs Union of India’, the Supreme Court has ruled that one whole community can be considered as a ‘class’ on the basis of their social and educational backwardness. The phrase ‘backward class’ is religion neutral and does not relate to any caste and hence, any caste or religion can be included in it which is suffering from social and educational backwardness. The court has commented that the Karnataka government has identified the whole Muslim community staying in that State as backward class on the basis of the detailed survey it conducted and extended the reservation facility to them.¹⁴

In the context of protection of the rights of all the citizens including the minorities, the provisions in Articles 25 to 28 under Chapter-III of Indian Constitution too have given protection to religious freedom and rights. Article 25(1) gives the right to public order, decency and health while other provisions under this Chapter gives the right to freedom of conscience and free profession, practice and propagation of religion.¹⁵

Two types of rights have been

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given citizens under Article 25: (1) Freedom of conscience, and (2) Free profession, practice and propagation of religion.

Freedom of conscience here means the uttermost internal freedom with the help of which a person can establish his relations with his God as per his wish.

Free profession of religion here means free and open display by a person of his love and trust towards his religion and give practical shape to his religious beliefs in whichever way he intends to.

Free practice of religion here means freedom of performing the duties, rituals and religious practices as prescribed by the religion. Free propagation of religion here means communicating the thoughts to others and publishing them for the purpose.

This is thus clear that Article 25 gives full freedom to the minorities to maintain their religious beliefs, values and affiliation, provided that it does not go against the public order, decency and health. The apex court has confirmed it time and again in its various rulings. In its historic and far-reaching verdict in the case of Bijoy Emanuel vs State of Kerala, it has ruled that nobody can be forced to sing the national anthem if his religion does not permit it and simply standing up in respect while the anthem is being played would be enough.¹⁶ In the case of Ismail Farooqi vs Union of India, the Supreme Court has ruled that by applying its sovereign powers, the State can acquire places of worship like mosques, churches and temples, because the right to worship anywhere and everywhere does not come under the right to worship.¹⁷

During the hearing of the case of Church of God (Full Gospel) in India versus KKR Majestic Colony Welfare Association, it was argued by the Church that the petition has been filed just to restrict the religious activities of the institution of a minority community and the court cannot interfere in the matters of religious activities. In its judgement, the apex court ruled that the religious freedom given under Articles 25 and 26 does not allow to create noise pollution in the name of religion

During the hearing of the case of Church of God (Full Gospel) in India versus KKR Majestic Colony Welfare Association, it was argued by the Church that the petition has been filed just to restrict the religious activities of the institution of a minority community and the court cannot interfere in the matters of religious activities. In its judgement, the apex court ruled that the religious freedom given under Articles 25 and 26 does not allow to create noise pollution in the name of religion.¹⁸ Similarly, in Acharya Jagdishwaranand's case, it ruled that the dance macabre performed by the Anandmargis brandishing lethal weapons, human skulls and burning torches in public places is not an essential element of their religion and hence, it can be prohibited in the interest of the public.¹⁹

In the famous Shaira Bano vs Union of India case, the rights of the minority Muslim women was protected by setting them free from 'Teen Talak'.

Under Article 26 of Indian Constitution, the following rights have been given to every religion or a sect of it, while adhering to public order, decency and health:²⁰

1. Establishing religious and charitable institutions and making declarations

2. Arranging things related to religious work
3. Earning and owning movable and immovable property
4. Managing such property as per law

Article 27 prohibits forcing someone to pay donation for the growth of any particular religion.

Article 28(1) prohibits imparting religious teachings in any fully government funded educational institution. This clause is not applicable to those educational institutions which are managed by the state but are established by such endowments or trusts which necessitate imparting religious teachings in those institutions.

According to Article 28(2), any person attending the state recognised or state aided educational institutions cannot be forcibly imparted religious teachings until and unless he or his guardian, if necessary, gives his consent for it.²¹

Rights related to culture and education (Articles 29-30)

Articles 29 and 30 have been grouped together under a common title "Rights related to culture and education". The Articles have provided four privileges to the minorities which

are as follows:

1. Any section of the citizens has the right to maintain its own language, script and culture
2. All the religious and linguistic minorities have the right to establish and administer educational institutions of their choice
3. In the matter of government extending financial assistance, educational institutions have the right against discrimination on the basis being religious or linguistic minority institutions
4. Right against being deprived of admission into government funded or aided educational institutions

Article 350-A of the Constitution provides special provisions for the protection of linguistic minorities. It says: "It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities." Thus, Articles 29(1), 30(1) and 350-A have guaranteed the cultural and educational rights to the citizens of India, including that of the minorities. Article 29(1) guarantees the linguistic minorities their fundamental right to maintain their language while in Article 350-A, all the States have been asked to arrange education facilities for the children of linguistic minorities in their own language at the primary level itself. In Article 350-A,

read with Article 45, provisions have been made to give the States important policy instructions to maintain the language of the linguistic minorities. In the case of General Secretary of Linguistic Minorities' Protection Committee vs State of Karnataka, the government order was challenged which had made Kannada language compulsory for the children of linguistic minorities from the first year of primary education and also forced the primary schools established by linguistic minorities to make Kannada compulsory for the students from the first year itself. But the order was found encroaching upon the Articles 29(1) and 30(1).²²

Provisions in Article 350-B empower the President to appoint a Special Officer for the linguistic minorities. It says: "It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned." The provisions of Article 350-B should be read along with Chapter-III of the Constitution, especially Articles 29 and 30, which bestows the rights to the linguistic minorities.

To evaluate the progress and development of the minority communities and to monitor the implementation of the methods for protection of their rights given by the Constitution and the statutes, the Central government had constituted a constitutional commission for

the minorities in 1978. A law was enacted in 1992 so that the constitutional commission can be set. Consequently, the National Commission for Minorities (NCM) came into being in 1993. The main functions of the NCM are as follows:²³

1. Evaluate the progress of the development of minorities under the Union and States
2. Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures
3. Make recommendations for the effective implementation of safeguards for the protections of the interest of minorities by Central Government or the State Governments
4. Look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities
5. Case studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal
6. Conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities
7. Suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments
8. Make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular

difficulties confronted by them

The Constitution Amendment Bill, i.e. the Constitution (One Hundred and Three Amendment) Bill, 2019, was introduced so that a new Article, i.e. Article 340-A can be included to set up the National Commission for Minorities at the constitutional level. Along with this, a Bill to repeal the National Commission for Minorities Act, 1992, was also introduced.²⁴

The National Commission for Minority Educational Institutions Act, 2004, was enacted to constitute the Commission, which was entrusted with the following duties: (i) in respect of any matter relating to the education of the minority communities, as may be specified, the Central Government or any State Government shall be

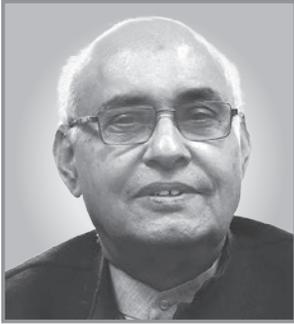
informed, (ii) to consider specific complaints relating to deprivation or infringement of the rights of minorities to establish and administer educational institutions of their choice, (iii) adjudicate on any dispute relating to affiliation to a Scheduled University and submit its findings to the Central Government for implementation. In the year 2006, extensive amendments were made to this Act (18 of 2006 Act), inter alia, empowering the Commission to investigate into any dispute relating to specific complaints regarding deprivation or infringement of the rights of minorities (or any person/s on its behalf) to establish and administer educational institutions of their choice or any dispute relating to affiliation to a Scheduled University and report its findings, on its own or on

behalf of the minority community, to the appropriate government for implementation. It is now provided in the Act that if any dispute arises in relation to the affiliation between a minority educational institution and a university, the decision of the Commission thereon shall be final.²⁵

In the light of the above, it seems appropriate to say that the Constitution of India has tried to uphold the rights of the minorities. Whether it is a question related to fundamental rights or matters related to linguistic or religious aspects. The Supreme Court has also set an example in its decisions to protect the rights of minorities. The educational and cultural rights of minorities have been protected by providing special rights to minority educational institutions. ●

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Dr. Mahesh Chandra Sharma

Pain of the Constituent Assembly

The circumstances under which the Constituent Assembly, which was framing the Constitution for independent India, worked were no less difficult. A detail of the sufferings that the Assembly suffered

There is a history of establishing parallel identities of Hindu and Muslim in the public life of India. The story of its inclusion in the constitutional process appears in the debate of the Constituent Assembly starting from 1909. There are three occasions when the members in the Constituent Assembly express their views on the minority element. In the name of minority, the British established Muslims' identity in India as a parallel nationality to Hindu, which eventually became defined as 'Two Nation Theory'.

For the first time, when Pt. Jawaharlal Nehru moved the 'Objectives Resolution' in the Constituent Assembly on 13 December 1946, finally on the basis of that the Preamble of the Constitution was written. While presenting this resolution, there was a poetic lecture of Jawaharlal ji, which was scholarly and full of emotions. At the same time, it also had the compulsions which were imposed on the Constituent Assembly due to the approval of the Cabinet Mission.

This proposal was supported by Rajarshi Purushottam Das Tandon. In his speech he said, "Residuary powers and political rights, which may conduce to unity and progress in the country, should lie with the Central or Federal Government.

The Resolution, however gives residuary powers to the provinces so that the Muslim League may not say that we have done in their absence what as we pleased. Moreover, the State Paper issued by the Cabinet Mission, which is the foundation of the Constituent Assembly, also said that the residuary powers should go to the provinces. We accepted it in the hope that this will enable the Muslim League to work with us. We went as far as we could to make the Muslim League co-operate with us; nay, I would rather say, we want farther than was needed, because the Muslim League aims at certain objectives which are absolutely against our objectives and this will cause a lot of trouble in the future. For the sake of securing Muslim League's co-operation we have been accepting many things against our ideals. We should now put a stop to that and should not ignore our fundamental principles for the sake of coming to an agreement with the Muslim League."¹

The reference to Tandon ji's speech is the federal system proposed in the Objectives Resolution, in which residuary powers were not given to the center but to the states. It is a different story that when this resolution was introduced, then the Constituent Assembly was making a constitution for a united India,

but later we had to amend this resolution as a constitution for a divided India. In the federal structure that we accepted, as Tandonji wanted, the residuary powers were not given to the states but to the Centre.

At the time of this resolution, the Constituent Assembly was apprehensive about the politics of Partition of India, but it was trying to formulate a legislation that could defeat the politics of Partition. The Muslim League, which had boycotted the Constituent Assembly, was trying to satisfy the minorities (Muslims) with the desire that the Muslim League should become cooperative in the formation of the Constituent Assembly. Therefore, the issue of the absence of the Muslim League dominated the discussion of the Objectives

Resolution.

In this debate, Dr. Syama Prasad Mookerjee had made a request to the leadership that now that the Constituent Assembly has been formed, so we should not make any decision outside this assembly, "In view of the developments that have taken place during the last few days, our task will not be performed so easily. But let me emphasise that whatever has to be done, it has to be done through the agency of this Constituent Assembly and none other."²

This advice of Dr. Mookerjee could not be put into practice. There was a Constituent Assembly, it had the status of a provisional parliament. But the subject of partition was decided outside the Constituent Assembly. Had the

'India Independence Act 1947' introduced by the imperialists been brought in the Constituent Assembly, it might not have been accepted, but it did not happen. The Constituent Assembly had to obey the direction of partition. This is unfortunate history.

The second occasion for discussion on this subject in the Constituent Assembly was when Sardar Vallabhbhai Patel tabled the Report of the 'Advisory Committee on Minorities' in the Constituent Assembly on 27 August 1947. Patel had worked hard to make this report unanimous. He also mentioned in his speech the long and provocative debate that went on in it. He wanted that the Constituent Assembly should also accept it unanimously. He said, "Let us hope that we will leave the legacy of bitterness



behind and forget the past and begin with a clean slate. An attempt has been made in this report to enumerate those safeguards which are matters of common knowledge, such as representation in legislatures, that is, joint versus separate electorates. This is the question which has raised controversy for almost a decade and we have suffered and paid heavily for it. But fortunately we have been able to deal with this question in such a manner that there has been unanimity on the point that there should be no more separate electorates and we should have joint electorates hereafter. So that is a great gain.”³

Even after dividing country, the Muslim League was still present in the Constituent Assembly. Sardar Patel's appeal had no effect on these League Muslim members and the leader of the League, B. Pocker Saheb Bahadur kept the amendment in favor of the resumption of 'separate electorate' and the Constituent Assembly was troubled by his speech. Mr. M. Anantashayanam Ayyangar of Madras gave a sharp answer to Pocker Sahib's arguments (both speeches are published elsewhere in this issue). Most of the speeches in the House were in the context of the toxicity of the minority element. For example, here are some excerpts from Dr. P.S. Deshmukh's speech to read: “In my opinion, there is no more monstrous word in the history of Indian politics than the word ‘minority’. Even since India emerged out of its political infancy, the demon of the interests of minorities and their protection stood before us and appeared to bar the progress

First and foremost, they have discontinued separate electorates. Secondly the none too just system of weightages has been given up. The composition of Cabinets is not going to be hampered by insurmountable difficulties of taking minority representatives as of legal and constitutional right nor are our percentages of recruitment going to be worked up to the second decimal as would certainly have been the case had the various representatives of the minorities insisted upon reservation in those spheres also

of the country. It is a matter of history that this was a creation of the British policy, but it succeeded so well that it is, in my view, essentially the work of the Satan of minority that our beloved country united for over a century has been divided into more parts than one. That this monster should at long last have been shorn of its terrors is an achievement worthy of note. I believe, Sir, that the Members of the Advisory Committee have in this respect a great achievement to their credit. I therefore offer them my hearty congratulations.

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say that the representatives of these minorities have taken a long and nationalistic view of the whole matter and provided they do not do anything to spoil the good effect, I would like to assure them on behalf of us all that they will never have any occasion to repent what they have conceded. It should always be remembered that we are, speaking the bare truth, a highly charitable and liberal-minded people. Some of our Muslim friends, mostly as a result of the British policy, painted us as tyrants and majority-made oppressors. I have never found any justification for such an accusation. but an unjust and untrue charge was repeated ad nauseum and somehow sustained throughout the last so many years. It is upon those false foundations that Pakistan was demanded and conceded. Very few showed patience to analyse the facts. Rather than tyrannize the minorities, the fact was that in most places the minorities tyrannized the majority. The Muslims have almost everywhere enjoyed privileges far in excess of what may be called Just or fair. In my own curious Province. Muslims still enjoy a position which is

even today denied to over 60 per cent of the peasants and workers by our own Hindu rulers.

This is not an occasion on which I would like to go further into the matter than this. I am content that no minority is going to try any more to deprive others of what legitimately belongs to them. For many years past, it was the majority that has been tyrannized. Unfortunately, the so-called majority is dumb and deaf and although many of us try always to speak in their name, I have no hesitation in stating that we have completely failed in translating our words into action. May I ask, Sir, what place has been given to the millions of Jats, million, of Ahirs, Gujars, Kurmis, Kunbis, the Adibasis and millions of others. Have we not been a little too engrossed in our own exploits and have given inadequate thought to the thousands of these poor people who have sacrificed their lives to give us the present freedom. What place have we assigned to them except to visualize that they will as heretofore blindly, meekly and religiously vote for any one we will choose for them. From this point of view, the situation is gloomy even today. It is up to our present rulers to examine and consider, if they are so inclined and to understand all that I mean If they do not do this, nothing but trouble and destruction will lie ahead. I therefore urge that at least when the minorities are content to have only their fair share of power in the, Cabinets and a reasonable proportion in Government services, our rulers will pay some attention to the oppressed and neglected rural population which has

Patel was saddened by the speech of the leaders of the League. Responding to the debate, he said, Can you show me one free country where there are separate electorates? If so, I shall be prepared to accept it. But in this unfortunate country if this separate electorate is going to be persisted in, even after the division of the country, woe betide the country; it is not worth living in

even under the sacred name of the Congress been more undone than assisted. Pressed by political considerations, microscopic minority interests have been advocated by the greatest of democrats. They enjoyed posts and privileges which they-had no right to enjoy. It is self-evident that if anybody enjoys more than he deserves, he must of necessity deprive someone else of his legitimate share. Let this be borne in mind in distributing power and posts among the various Hindu communities and let the policy of the Devil take the hindmost cease, at least from now."⁴

One by one the members criticised the 'minority' element and praised the efforts of Sardar Patel.

Patel was saddened by the speech of the leaders of the League. Responding to the debate, he said, "Can you show me one free country where there are separate electorates? If so, I shall be prepared to accept it. But in this unfortunate country if this separate electorate is going to be persisted in, even after the division of the country, woe betide the country; it is not worth living in. Therefore, I say, it is not for my good alone, it is for your own good that I say it, "forget the past. One day, we may be 'united. I wish well to Pakistan. Let it succeed. Let

them build in their own way, Let them prosper. Let us enter into a rivalry of prosperity, but let us not enter into that rivalry that is going on today in the land of Pakistan. You do not know that we are sitting in Delhi on a volcano. You do not know the strain that is being put on us because of what is happening near about. My friend the Mover of the amendment says the Muslim community today is a strong-knit community, Very good; I am glad to hear that, and therefore I say you have no business to ask for any props, (Cheers). Because there are other minorities who are not well-organised, and deserve special consideration and some safeguards, we want to be generous to them. But at the same time, as you have enjoyed this to a certain extent for a long time and you may not feel that there is discrimination, we agree to reservation according to population basis. Where is that kind of reservation in any other free country in the world? Will you show me? I ask you. You are a very well-organised community. Tell me, why do you behave like a lame man? Be a bold and a strong man, as you are well-organised and stand up. Think of the nation that is being built on this side. We have laid the foundation of a nation. From now, under this new constitution,

Chaudhuri Khaliquzzaman says the British element is gone, and therefore forget the suspicious. The British element is gone, but they have left the mischief behind.”⁵

After Patel's speech, all the members collectively urged Pocker Sahib to withdraw his amendment, but even on this Pocker Sahib did not agree, he stuck to his amendment, as a result his amendment was 'rejected' by voting.

This behavior of Muslim League not only hurt Patel but also angered him. When the full report was presented and the debate had taken place, he had an angry speech at the end, “So far as the amendment moved by the representative of the Muslim League is concerned, I find that I was mistaken in my Impression and if I had believed this, I, would certainly not have agreed to any reservation at all. (Hear, Hear). When I agreed to the reservation on the population basis, I thought that our friends of the Muslim League will see the reasonableness of our attitude and allow themselves to accommodate themselves to the changed conditions after the separation of the

country. But I now find them adopting the same methods which were adopted when the separate electorates were first introduced in this country, and in spite of ample sweetness in the language used there is a full dose of poison in the method adopted. (Hear, Hear). Therefore, I regret to say that if I lose the affection of the younger brother, I am prepared to lose it because the method he wants to adopt would bring about his death. I would rather lose his affection and keep him alive. If this amendment is lost, we will lose the affection of the younger brother, but I prefer the younger brother to live so that he may see the wisdom of the attitude of the elder brother and he may still learn to have affection for the elder brother.

Now, this formula has a history behind it and those who are in the Congress will be able to remember that history. In Congress history this is known as the Mohammad Ali Formula. Since the introduction of separate electorates in this land there were two parties amongst tile Muslims. One was the Nationalist Muslims or the Congress Muslims and the other the Muslim League

members, or the representatives of the Muslim League. There was considerable tension on this question and at one time there was a practical majority against this joint electorate. But a stage was reached when, as was pointed out by the Mover of this amendment in Allahabad a settlement was reached. Did we stand by that settlement? No. We now have got the division of the country. In order to prevent the separation of the country this formula was evolved by the nationalist Muslims, as a sort of half-way house, until the nation becomes one; we wished to drop it afterwards. But now the separation of the country is complete and you say, let us introduce it again and have another separation. I do not understand this method of affection. Therefore, although I would not have liked to say anything on this motion, I think it is better that we know our minds perfectly each other, so that we can understand where we stand. If the process that was adopted, which resulted in the separation of the country, is to be repeated, then I say: Those who want that kind of thing have a place in Pakistan, not here (Applause.) Here, we are building a nation and we are laying the foundations of One Nation, and those who choose to divide again and sow the seeds of disruption will have no place, no quarter, here, and I must say that plainly enough. (Hear, Hear.) Now, if you think that reservation necessarily means this clause as you have suggested, I am prepared to withdraw the reservation for your own benefit. If you agree to that, I am prepared, and I

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am sure no one in this House will be against the withdrawal of the reservation if that is a satisfaction to you. (Cheers.) You cannot have it both ways. Therefore, my friends, you must change your attitude; adapt yourself to the changed conditions. And don't pretend to say "Oh, our affection is very great for you". We have seen your affection. Why talk of it? Let us forget the affection. Let us face the realities. Ask yourself whether you really want to stand here and cooperate with us or you want again to play disruptive tactics. Therefore when I appeal to you, I appeal to you to have a change in your heart, not a change in the tongue, because that won't pay here. Therefore, I still appeal to you: "Friends, reconsider your attitude and withdraw your amendment". Why go on saying "Oh, Muslims were not heard; Muslim amendment was not carried". If that is going to pay you, you are much mistaken, and I know how it cost me to protect the Muslim minorities here under the present condition and in the present atmosphere. Therefore, I suggest that you don't forget that the days in which the agitation of the type you carried on, are closed and we begin a new chapter. Therefore, I once more appeal to you to forget the past. Forget what has happened. You have got what you wanted. You have got a separate State and remember, you are the people who were responsible for it, and not those who remain in Pakistan. You led the agitation. You got it. What is it that you want now? I don't understand. In the majority Hindu provinces

Very important decisions were taken. Separate constituencies were abolished. The provision of reservation in the cabinet was also repealed. The British had also included Scheduled Castes and Tribes in the figures of minorities. First, Shri K.M. Munshi and later through Shri K.T. Shah's amendments, they were taken out of the minority purview. The 'minorities' were mentioned in the constitution in a very general way. But due to which the British were exploiting minority isolation in the interest of their empire

you, the minorities, you led the agitation. You got the partition and now again you tell me and ask me to say for the purpose of securing the affection of the younger brother that I must agree to the same thing again, to divide the country again in the divided part. For God's sake, understand that we have also got some sense. Let us understand the thing clearly. Therefore when I say we must forget the past, I say it sincerely. There will be no injustice done to you. There will be generosity towards you, but there must be reciprocity. If it is absent, then you take it from me that no soft words can conceal what is behind your words. Therefore, I plainly once more appeal to you strongly that let us forget and let us be one nation."⁶ This juncture repeated itself again in the Constituent Assembly when the draft of the constitution was finally passed. It is not possible to convey the completeness of this debate in one article.

Very important decisions were taken. Separate constituencies were abolished. The provision of reservation in the cabinet was also repealed. The British had also included Scheduled Castes and Tribes

in the figures of minorities. First, Shri K.M. Munshi and later through Shri K.T. Shah's amendments, they were taken out of the minority purview. The 'minorities' were mentioned in the constitution in a very general way. But due to which the British were exploiting minority isolation in the interest of their empire. After independence, the political parties of India kept irrigating this venomous creeper again in the desire of 'vote bank'. Today's politics of polarisation is the result of this. ●

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Dr. Vinay Kouda

Concept of minorities in Western Constitutionalism

History of minority rights in the West¹

The concept or notion of rights of minorities is not very old historically. It was only in 1966, the United Nations provided the first legal definition of ‘minority’ in Article 27 of the International Covenant on Civil and Political Rights which guarantees members of religious minorities the right to profess and practice their religion.

Till the middle of the 17th Century, no such concept was accepted or acknowledged. Questions about minorities arose at those moments when the state system was being reformulated. Modification of the state system gave birth to new challenges of defining who was insider and who was outside the human communities and the international boundaries. The Treaty of Westphalia not only detailed a general territorial redistribution amongst the various sovereign states that had become entangled in the Thirty Years War, but granted certain concessions to those of the ‘Confession of Augsburg’, i.e. Protestants. It needs to be mentioned here that the Peace of Augsburg of 1555 marked truce between Catholics and Lutherans; it codified the demand for religious unity

within the state which meant that the religion of the ruler would be the religion of the country. But religious feeling did not diminish and regional differences soon pulled universal Christianity apart when the sense of separate identities within states grew stronger. The principle *cujus regio ejus religio* (which literally means “whose realm, their religion”) marked a major development in the freedom of religion within Western civilization. It meant that religious coexistence gradually extended throughout the Christian Europe, and set some limits on the rights of the princes.²

The Peace of Westphalia attempted to reaffirm the religious rights of sovereigns, but these rights were circumscribed by the requirement of tolerance. Protestants were given back the churches and ecclesiastical estates that they had possessed in the year 1624. The Treaty of Osnabruck in 1648 allowed for liberty of conscience and asserted the right of minorities to practice their religions in both public and private spheres.³ Similarly, both the Treaty of Nijmegen (1678) and the Treaty of Ryswick (1697), which settled disputes arising from the French/Spanish struggle to control the Netherlands, promised the continued

The history of minority rights is though not deep rooted yet it’s a well discussed issue in the modern world. The West has specific reason behind emergence of separate rights for minorities. It will be interesting to have a look on it

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enjoyment of all dignities and benefices that followers of all Christian faiths used to enjoy before the outbreak of war. It is important to emphasize the significance of Westphalia as territorial rights were being settled and geographical extension of the sovereign rule being defined. When compared to the context within which Ferdinand and Isabella expelled the Jews from Spain, what the Westphalian system achieved was codification of the legitimate behaviour of monarchs towards their subjects.

In the Treaty of Paris (1763), George III of Great Britain gave Roman Catholics in lands formerly belonging to France the freedom to practice their faith. It was considered as a gesture of good faith towards Louis XV. This particular text makes clear the widely held view that any such minority religious guarantees were special concessions granted by the sovereign to his new subjects in the interests of international peace. These subjects were in no way understood to inalienably possess such rights by virtue of

their humanity or natural law; they owed them to the discretion of the sovereign. The laws of the sovereign would prevail in the event of a conflict between the interests of the sovereign and the treaty stipulations pertaining to such communities. In short, the sovereign authority of a prince receiving territory was not restricted by these early minority guarantees but instead remained absolute.

The transformation of international society from an association of princes to one of nation-states was a gradual process. It took several generations before the idea of the nation-state gained widespread acceptance.

Nevertheless, already in the Final Act of the Congress of Vienna (1815) there is evidence that the political formulation of minority rights had begun to change. This was in response to the rise of national identities. The various treaties signed at Vienna are a significant milestone in the evolution of minority rights because they mark the first occasion on which minorities were defined

as national groups rather than religious communities. As the nineteenth century progressed, this new national formulation of minority rights gained currency until, by the 1878 Congress of Berlin, the question of minorities had become a corollary of the rise of new nation-states outside Western Europe. As international society expanded eastwards by adding new members, particularly in the Balkans, the rights of minorities to civil and political were further extended. This had huge implications for national and international politics. Protection of minorities was no longer assumed by states as gestures of international goodwill, but came to be regarded as preconditions for the new nation-states' membership in international society.

Though the nation-state system can be traced the treaty of Westphalia, the actual understanding of nation and state became subsequently clear. Generally speaking, the founding principle of a nation is understood to be a common religion, language, race, ethnicity,



or shared history and culture. A long period of World Wars in European lands led to subsequent integration of some regions and disintegrations of many others, thus creating different nation-states. By the time the World Wars came to an end, the boundaries of European nations over the global map were demarcated. This phase not only led to the changes in geography but had an impact on social, cultural, economic and political structure of the respective societies. The horrors of wars, inter-ethnic tensions, ethnic-based political mobilization, mass killings, racial discriminations and other such factors also brought the issue of minorities to the forefront of debate.

Migration of different communities became common, creating demographic changes over the subsequent period of time. Minorities are generally regarded as political outsiders whose identities do not resemble to the basis that defines political membership in the sovereign jurisdiction on whose territory they live.⁴ Though, the freedom and rights of national minorities in theory seems to be legitimate but in practice it is difficult to exercise because of inherent difficulties in the territorial redistribution that led to creation of different identities.⁵ The emergence of political instability and insecurity in various facets of life often lead to the strengthening of individual and collective identities based on entrenched notions of majority and minority.⁶

Under Western constitutionalism, the conceptual definition of 'religious minority' has undergone a sea change after the World War II. Such changes

The only specific reference to minorities is found in Article 14 of the European Convention of Human Rights: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." The European Court of Human Rights has held that if a State takes positive measures to enhance the status of a minority group, the majority cannot claim discrimination based on such measures

have reflected different phases of development linked to evolving approaches to human rights. The growing interest in minority rights in Western scholarship and European arenas is primarily because of many interconnected factors, including divergent interpretations of the concept of religious minority, new interpretations of freedom of religion, equality between believers and non-believers, and the implementation of human rights on the basis of gender identity.

European practices

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discrimination based on such measures. In general, "a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position".⁸ The use of a minority language in private or among members of a minority group is, however, protected by the right to freedom of expression guaranteed under Article 10. Therefore, minorities enjoy the right to publish their own newspapers or use other media, without interference by the State or others.⁹ The State is supposed to allow the minority group free expression; sometimes even at the cost of questioning the political structure of the State.

The Charter of Fundamental Rights of the European Union (EU) prohibits any discrimination based on language or membership of a national minority in Article 21.¹⁰ Furthermore the Union shall respect cultural, religious and linguistic diversity, according to Article 22 of the Charter. The importance given to the different regions by the EU and its member states is given expression by the existence of the Committee of the Regions. This institution is an advisory body for the Commission, Council and

European Parliament. Regions and cities in the member states are given a say in the EU decision-making process. The Committee of the Region is not an organ for the minorities, but they have the chance to make their interests known in the committee through their activities in the different areas of settlement. The Council of the European Union has also adopted a number of directives against discrimination, e.g. the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin from 2000 (Directive 2000/43/EC). However, there is no directive that directly addresses discrimination based on language or membership of a national minority.

Germany

There is no official data on ethnicity in Germany. The post-war German governments sought to give some protection to their established minorities. The rights of the Sorbs were recognized by law in Saxony in 1948 and in Brandenburg in 1950. The rights of the Danes and Frisians in Schleswig-Holstein were also recognized. A 1955 joint declaration between

the West German and Danish governments paved the way for the legal rights of the Danish minority to be introduced in Schleswig-Holstein, while the German minority in Denmark was similarly protected.

The 1949 Basic Law – Constitution – mentions that all citizens are equal before the law. It also sets out that in all public institutions there should be no discrimination on the basis of gender, descent, race, language, origin, belief, disability, religious and political views.¹¹ After the re-unification of Germany, migration also increased, though migrant communities do not enjoy the rights established within the country’s legal framework for national minorities.

The Federal Republic of Germany ratified the Framework Convention for the Protection of National Minorities (FCNM) in September 1997. The ratification of the European Charter for Regional or Minority Languages followed in September 1998. As a result, Germany recognizes four ethnic groups as its national minorities. They are officially referred to as following¹²

- Danish minority - 50,000 (concentrated in Schleswig-

Holstein state),

- Frisian ethnic group - 60,000-70,000 (based in Eastern and Northern Frisia),
- Roma and Sinti - estimated at 105,000
- Sorbian people- 60,000 (primarily in Saxony and Brandenburg)

Legal framework- Specific minority legislation and measures¹³

Danish minority – They are protected by the Constitution of Schleswig-Holstein. They receive specific protection because of the Bonn-Copenhagen Declarations (1955). The Schleswig-Holstein Election Code contains privileges for the parties of the Danish minority, similar to the Federal Election Law. This means that ‘5-percent-clause’, according to which only those parties are taken into account that achieve at least five percent of the votes or that achieve a direct mandate in at least three election districts, does not apply to the parties of the Danish minority in Schleswig-Holstein.

Frisians – They are protected by the constitution of Schleswig-Holstein. In 2004 the Schleswig-Holstein parliament (Landtag) adopted the ‘Frisian Law’ that provides support for and protects the Frisian language and culture. It recognizes the Frisian language forms and their free use and guarantees the specific rights of the Frisians.

Lusatian Sorbs – They are explicitly protected firstly by a protocol note to the German Unification Treaty and secondly by the laws of the Lands of Brandenburg and the Free State

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of Saxony, where the minority is living.

Sinti and Roma – The amendment of the Constitution of Schleswig-Holstein in November 2012 made that for the first time the German Sinti and Roma received explicit protection in a German federal land.

Danish, Upper and Lower Sorbian, North and Sater Frisian, and the Romany language of the German Roma and Sinti are recognized as minority languages in Germany. Measures aimed at the promotion and protection of minorities and speakers of the regional language are being implemented at the federal, Länder and municipal levels in Germany. Among the bodies dealing with minority issues, there is the Federal Government Commissioner for Matters Related to Ethnic German Resettlers and National Minorities within the Federal Ministry of the Interior, Building and Community, which is the primary contact point at the central level in minority related issues.

The Ministry maintains four consultative committees focusing on the issues of each of the four recognized national minorities in Germany. All of them are chaired by the Federal Government Commissioner. Another institution is the Minority Secretariat, which was created in 2005 to serve as a liaison office between the central institutions and the umbrella organizations of Germany's recognized minorities. This is a state-funded institution supported by the Federal Ministry of the Interior. The Secretariat provides organizational support to the activities of the Minority Council, which consists of the

representatives of the umbrella organizations of the four national minorities of Germany and represents the interests of these minorities before the federal executive and legislative bodies. The meetings of the Minority Council are organized at least twice a year.

The Federal Anti-Discrimination Agency is the primary point of contact in cases of discrimination. It was established in 2006 in compliance with the General Equal Treatment Act. It also conducts research on the patterns of inequality and discrimination in Germany, including those faced by vulnerable communities such as Roma and Sinti. The position of the Federal Government Commissioner for Jewish Life in Germany and the Fight against Anti-Semitism was established in 2018 within the Ministry to address the needs of the Jewish community and counter manifestations of anti-Semitism in the country.

Legal framework¹⁴

The German Basic Law (Grundgesetz) prohibits any form of discrimination based on language, homeland and origin (Article 3, paragraph 3, first sentence of the German Basic Law). This is binding for the legislature, for the administration on all levels, and for the judiciary. There is no specific minority article in the German Basic Law so far. The Minority Council, however, has been campaigning for incorporating a minority article into the German Basic Law.

France

“France is a country in which there are no minorities,” as per

France's official statement to the UN Human Rights Committee clarifying its reservation to article 27, the minority rights provision of the International Covenant on Civil and Political Rights (ICCPR). This is justified by reference to the ‘republican model’ of integration based on the constitutional principle of equality under French law.¹⁵

The republican model is expressed in the foundational text of the 1789 Declaration of the Rights of Man and of the Citizen, the preamble of the 1946 Constitution, and the 1958 Constitution, collectively termed the *bloc de constitutionnalité*, or the body of constitutional rules.¹⁶

Article 2 of the French Constitution reads- “France is an indivisible, secular, democratic and social Republic. It ensures the equality before the law of all citizens, without distinction of origin, race or religion. It respects all beliefs. The national emblem is the tricolour flag, blue, white and red. The national anthem is the ‘Marseillaise’. The motto of the Republic is ‘Liberty, Equality, Fraternity.’ Its principle is government of the people, by the people, for the people”.

The 1789 revolution and the Declaration of the Rights of Man and of the Citizen mark an important moment in the definition of French citizenship and its relationship with minority groups. Article 1 of the Declaration states: “Men are born and remain free and equal in rights. Social distinctions can have no other basis than common utility.”¹⁷ In this republican spirit, equality has been interpreted to justify the rejection of minority rights. Hence France does not so much argue that

minority rights are unnecessary, or undesirable, but rather that they are unconstitutional. The French Ministry of Culture and Communication recognizes 14 distinct minority languages and two minority language groups in metropolitan France, and 47 minority languages in the French overseas territories.

The French Revolution had a strongly centralizing effect: provincial traditions were eroded, and local languages and cultures banned. It adopted the Declaration on the Rights of Man and the Citizen in 1789, which recognizes the equality of all before the law. This has provided the basis for civil rights in all subsequent French Constitutions. The Constitution recognizes freedom of religion. In line with its tradition of secularism, the collection of information about an individual's ethnicity or religious beliefs has been prohibited since 1872. Consequently, there is no official data available on the composition of France's ethnic or religious minorities.

Spain

Spain continues to apply the provisions of the Framework Convention to Spanish citizens of the Roma community despite the fact that there is no formal recognition of the notion of 'national minority' within the

meaning of the Framework Convention in the Spanish Constitution, in which Article 14 guarantees equality to all Spanish citizens. The existing anti-discrimination provisions are contained in Article 14 of the Constitution, and in Articles 27 to 43 of Law 62/2003, which transposed EU equality directives 2000/43 and 2000/78 and amended over 50 existing laws. According to Article 14 of the Constitution¹⁸ and the case law of the Constitutional Court, discrimination based on all personal or social circumstances and conditions is prohibited; however, the grounds of language, citizenship and national or ethnic origin are missing from the Constitution and from other legal provisions.

According to the state authorities, legal impediments prevent questions about ethnic affiliation from being included in Spain's population census, although this interpretation is disputed by the Spanish Ombudsperson. Consequently, the National Statistics Institute does not disaggregate data relating to the Roma population and does not intend to include any questions about ethnic affiliation in the forthcoming census.

According to article 46 of the Spanish Constitution, "the public authorities [shall] guarantee the

conservation and promote the enrichment of the historical, cultural and artistic heritage of the peoples of Spain and the assets that comprise it, whatever their legal regime and ownership." Article 314 of the Criminal Code prohibits discrimination in public and private employment on the grounds of belonging to an ethnic group.

Belgium

As one of the few countries in the Council of Europe, Belgium has not ratified the Framework Convention for the Protection of National Minorities as well as the European Charter for Regional or Minority Languages. Nevertheless, minorities are protected in Belgium due to its specific federal structure. The principle of equality and non-discrimination (Articles 10-11 Belgian Constitution) is one of the foundations of a democratic state and is also applicable to private relationships. Article 10 of the Belgian Constitution states: "No class distinctions exist in the State. Belgians are equal before the law: ...Equality between women and men is guaranteed."¹⁹

Belgium is a federal state with three regions (Flanders, Wallonia, and Brussels) and three linguistic communities (Flemish, French, and German). The federal state is responsible for foreign affairs, national defense, justice, finance, social security, and some issues related to public health; migration is also a federal responsibility. Federally, there is no Belgian 'model of integration' largely because responsibility for many of the issues related to immigrants' integration fall in the hands of the regions and communities. Nonetheless, at

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the federal level, the government issued a policy agreement in 2003 which committed the government to exploring the idea of “shared citizenship” with the aim of improving Belgium’s reception of migrants, fostering newcomers’ autonomy, and addressing discrimination in the workplace.

The Flemish Parliament issued a decree in 1998 that set out a three-track policy with respect to ethnic minorities; it includes an emancipation policy that emphasizes the integration of target groups, a reception policy, and a relief policy. The Flemish government has also pursued an intercultural policy agenda to support and stimulate cultural diversity. Since 2004, ‘living together in diversity’ has been a priority of the Flemish government.

Wallonia has tended toward the French republican model. Wallonia has adopted an intercultural policy. Brussels, meanwhile, has tried to incorporate elements from a number of approaches, including the establishment of the Belgian Diversity Charter in 2005.²⁰

Australia

Australia has not given a great deal of attention to the issue of protecting minority rights. Australia does not have a legal regime to protect minority rights. Although the human rights legal regime protects some individual rights, it does not protect minority groups. Although the common law affords some protection of individual or minority rights in Australia, it has traditionally regarded minority freedoms as “residual and has provided for their protection only indirectly.”

Clause 9 of Australia’s Constitution Act²¹ provides for four specific individual rights: the right to freedom of religion,²² the rights of residents in the States,²³ the right to have just terms paid for Commonwealth acquisitions of property,²⁴ and the right to a jury trial.²⁵ Accordingly, it makes no express reference to general rights and freedoms and, therefore, is silent regarding minority rights.

In 1901 the ‘White Australia policy’ virtually ended Asian migration for half a century. However, by the mid-1970s, the policy of assimilation began to give way to a policy of multiculturalism, where all Australians had the right to express their cultural heritage which includes language and religion. Australia is a party to many international human rights treaties. In 2013 the Australian government passed legislation recognizing the Aboriginal and Torres Strait Islander communities as the first inhabitants of Australia. This Aboriginal and Torres Strait Islander Peoples Recognition Act 2013, is the first law to officially recognize the status of indigenous peoples in Australia and directly refute in legislative terms the doctrine of *terra nullius* (‘empty land’) upon which Australia was founded.

Conclusion

The above discussion explains the conflict between the Western/European desire to have a homogeneous and unified population and the difficulties in achieving this desire in practice. After the two destructive World Wars, the desire to have homogeneous unity has subsided in European countries with the recognition of minority rights.

The constitutional provisions in most of the Western countries represent an attempt to limit the harmful effects of the desire for unified population, and as such represent the principle of religious coexistence.

All the Western countries examined in this article have adopted minority-majority policies as per their own history, cultural tradition and constitutional development. Why these policies and practices are important is not difficult to understand; because they play a vital role in state formation and national identity construction. One constitutional practice or political theory or national modal cannot be seen as universal.

The primary focus of most Western scholarship has been on nationalism, particularly ethno-nationalism. But the practices defining who is inside and who is outside the territorial boundaries were employed by state-builders much before the treaty of Westphalia. We need to understand that state formation is inherently is cultural process, a dimension overlooked by other theories of nation-state formation. It is therefore inherently problematic to view culture as merely an instrument of either economic or rational interests.

In contemporary India, the criterion on which national identity should be constructed has become profoundly powerful. A danger in Indian case is the misplaced notion that the minority is a monolithic construct. In all democratic countries, categories of majority and minority are not fixed as political dynamics make these identifies fluid. Viewed in this sense, democratic politics offers

immense possibilities of redefining who belongs to a majority and who belongs to a minority.

Since the mainstream theories of international relations are not

well-equipped to explain the phenomenon of the construction of national identities and interests, it is important to analyze the role of culture and symbolism

in Indian case. This cultural dimension to state formation and political legitimacy cannot be ignored if India has to form a cohesive national identity. ●

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Dr. Faiyaz Ahmed Faiz

Concept of 'Minority' and Native Muslims of India

In India, the word 'minority' has become synonymous with Muslims. Unfortunately, all the benefits meant for the minorities are grabbed by this particular community alone while others are left in the lurch. With this fact as the historical background, here is an analysis

'Minority' is such a word which always remains in discussion in Indian politics. Five religious communities are mainly counted under the minority category in India. They are Muslims, Sikhs, Christians, Buddhists and Parsis (Zarathustra). Later, the Jains were also included in the list.¹

Among these religious minority communities, Muslims are the most populous ones.² For all practical purposes, the word 'minority' connotes only Muslims in India. Other communities are seldom discussed about or not discussed at all. In the mainstream, discussion about minorities has always been considered as discussion about Muslims only. Moreover, by 'Muslim' we generally mean the ruling class Ashraf Muslims who have come from outside. According to an estimate, the native Muslims constitute around 90% of the total Muslim population in India. But they are not to be seen anywhere in the mainstream institutions of the minorities, whether run by the government or by the Ashraf Muslims. The Uttar Pradesh government has, however, succeeded in its initiative to appoint marginalized native Muslims in the minority related institutions.

It has come to light from the reports of right from Kaka Kalelkar

Commission, Mandal Commission, Ranganath Mishra Commission to Sachar Committee that the Muslim community is not a homogenous one. They too have upper, middle and lower classes as well as racial and caste discriminations among them. The descriptions are as follows:

1. 'Ashraf' is the plural of 'Sharif', which means 'elite' or 'aristocratic'. Another plural version of it is also known as 'Shorfa'. It includes people from ruling races which are of foreign origin, like Sayyad, Sheikh, Mughal, Pathan, Mirza etc. It also includes the converts from Hindu upper castes.³
2. 'Ajlaf' is the plural of 'Jalaf', which means 'uncivilized'. It mostly consists of the business classes, like tailor, dyer, barber, oilman, confectioner, potter, weaver, vegetable and fruit vendor, lock and key maker, shoe maker, hunter, butcher, juggler, magician etc.
3. 'Arjal' is the plural of 'Rajil', which means 'lowly' or 'wretched'. It comprises mostly the untouchables involved in sanitary work, like washerman, sweeper, scavenger, nomad etc.⁴

In this context, Dr. Bhimrao Ambedkar writes, "Muslims not only

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have a caste system but also have untouchability. At some places, they also have a third category Arjal and people belonging to this class are considered to be the wretched ones. They are neither allowed to mingle with other Muslims nor are they allowed entry into mosques and public graveyards.”⁵ The above two classes – Ajlaf and Arjal – are nowadays combinedly called as ‘native’ or ‘marginalized’ Muslims in India.

The Mandal Commission had even included many castes and backward classes of native Muslims in the list of people who can be given reservation. This is how native Muslims are availing the benefits of reservation under the other backward castes (OBCs) and Scheduled castes (SCs) categories. Such an example of social justice can hardly be seen any of the Muslim countries or even in the institutions run by the Muslims in India. But even today, the ruling class of Ashraf Muslims, who are leading the community, deny presence of any racism or casteism in the Muslim community whereas it is so widespread in the community. One the one hand, they try to suppress the question of social justice in the Muslim community

in this manner while on the other hand, they become vocal over the same question in Hindu community.

The native Muslims and their organizations – led by Jamiatul Momineen (Momin Conference) of Maulana Ali Hussain, better known as Asim Bihari – had vehemently opposed the two-nation theory of the Muslim League. Historical evidences amply prove it.

The severity of the opposition put up by the Momin Conference and the weekly magazine published by it “Momin Gazzette” against the Muslim League can be gauged from the fact that the editor of the magazine Maulana Abu Umar Bhagalpuri, in his editorial in 1937, had characterized the Muslim League in the following manner:

“The League is such a slaughterhouse where the poor are sacrificed for the sake of personal ambitions and vested interests. The League is such a weighing machine which would tilt to one side at the time of striking deals. The League is a political dictionary which is a storehouse of all types of mean words. The League is a poet who can sing paeans in the praise

*of its masters. The League is a platform of the capitalists and the elite class, where debates are held over self-interest and selfishness. The League is a supporter of the affluent class and monarchy, whose unity gives rise to slavery in the country. The League is such an actress who attracts the hearts of the uninitiated spectators towards her. The League is an intoxicating cocktail of freedom and slavery which energizes the hearts of the capitalists and can create hunger for ambition and selfishness in them.”*⁶

When the Muslim League passed the Pakistan resolution in its Lahore session on 30th March 1940, the Momin Youth Conference (the youth wing of Momin Conference) raised its voice in a most organized and roaring but simple and logical manner in its Patna session on 19th April 1940. In later sessions also, the Momin Conference kept raising its voice till the last breath in the strongest possible manner against the partition of the country.⁷

While criticizing the reservation policy facilitating recruitment of the people of backward classes in government jobs, the then Muslim League



vice-president Raza Ali had ridiculed the Congress saying, "How great and powerful would that government be wherein the sweepers, washermen and the scavengers would become the Field Marshals, Generals and the Colonels."

In a rejoinder to the editor of 'Asar-e-Jadid' (the modern times), in which the report quoting Ali making the above statement was published, Abdus Samad of Jamiatul Raeen (Raeen Conference) had written that this is indicative of the mindset of the Muslim League that it wants to deprive the marginalized classes of those privileges, the benefits of which are being enjoyed by itself.⁸

In the 1946 elections, which was seen as a referendum for the Muslim League, almost all the organizations of the marginalized Muslims had supported Asim Bihari-led Momin Conference and even won a few seats against the Muslim League. Then the right to vote was not like today, rather it was based on level of education and economic prosperity. Obviously, the marginalized and deprived native Muslims did not have the privilege of education and prosperity like the Ashraf classes. The minimum eligibility criterion to vote in Bihar was matriculation. It had a total of 40 seats for being a separate electorate. The Muslim League had grabbed 33 of them while the Momin Conference could win in six seats out of the 20 it fought for and the Congress party could manage to get only one seat, where the Momin Conference had decided not put up any candidate against it. Be it known that all other Muslim parties opposing Partition were wiped out in this election,⁹ making it

clear that almost whole of the Ashraf Muslim class, who ran the Muslim League, had come out in support of division of the country and formation of Pakistan.¹⁰

A clear segmentation between the ruling class Ashraf Muslims who have come from outside and the converted native marginalized Muslims can be seen within the Indian Muslim community. Clear differences in their language, accent, attire, costumes, culture and traditions is quite apparent. Being a ruling class, the Ashraf community has always been very powerful and dominant. On the other hand, the native marginalized Muslims are still in a deprived and ineffective condition. The country has the bitter and bad experience of the strong impact of Ashraf Muslims in the shape of its Partition.

The word 'minority' has not been clearly defined in the Indian Constitution.¹¹ However, it was decided in the Constituent Assembly during the debates that a reservation policy would be adopted for the minority communities, deprived backward castes and the tribals of the country.¹²

However, as per the definition set by the United Nations, a community can be regarded as a 'minority' one whose members share the same culture, religion or language or combination of any of these common specialties as well as are uninfluential on the social, political and economic fronts and are miniscule in numbers.¹³

If the Muslim community of India is measured on this criteria of the United Nations, it becomes clear that not much cultural similarities are there between the ruling Ashraf class and the native marginalized class. On

the one hand, the Ashraf class follow their Arabic, Iranian or Turkish culture while on the other hand, the marginalized class is steeped in the respective local cultures and traditions of different regions of the country they belong to. Secondly, from the view point of influence, the Ashraf class has always been very strong and influential in the society whereas the native class has been quite a deprived and uninfluential community. Hence, if this definition is applied, the Ashraf class does not fit into the concept of 'minority' at all.

Therefore, it will be hypocritical to consider the largest minority community of India as one and try to understand their problems and discuss their resolution on that basis. The experience so far clearly shows that the beneficiaries of almost all types of benefits and facilities given in the name of minorities have been limited to the strong and influential Ashraf class only. These benefits do not reach the other minority communities or the native marginalized classes in the manner it should have been. This might be one of the biggest reasons why the intellectual and political leaders of Ashraf class always try to keep the synonym of 'minorities' limited to 'Muslims' only. They have always been presenting the whole Muslim community as a homogeneous one. That is why the discussions about the rights of the other minority communities and the deprived, i.e. native marginalized, classes among the Muslims are not able to take centre stage in the political discourse of Muslims in this country. Thus, the benefits of the welfare schemes of the government fail to reach their real

beneficiaries.

One of the objectives of the 15-point program of the Narendra Modi government for the welfare of the minorities is to ensure that the benefits of different government schemes reach the deprived class of the minority communities too.¹⁴

To achieve this goal, it is necessary and appropriate to identify the deprived classes among the largest minority community of the country and other minority communities as well as put the issues related to their rights and protection at the centre of our discussions. Like the 'creamy layer' provision made in the reservation policy for the other backward classes, it seems justified to make similar provisions also for the Muslims and other minority communities

so as to ensure that the benefits of the welfare schemes meant for them percolate down to the deprived classes. Taking the benefits of the government's welfare schemes to the real needy people will help them join the mainstream of the society.

By the way, the right to protection and participation in governance are the main rights that fall under the rights of the minorities. As far as the issue of protection is concerned, mostly the life and property of the native marginalized Muslims are only lost during the incidents like communal riots and mob lynching. As far as the issue of participation in governance is concerned, the Ashraf class enjoys more than double the amount it deserves in proportion to the miniscule size of their population

while the participation of the native marginalized class stands at the minimal level in proportion to the huge size of their population. For example, among the total of 7,500 representatives elected to right from 1st to 14th Lok Sabha, 400 were Muslims and among those 400 Muslim members, 340 belonged to the upper Ashraf class while only 60 were from the marginalized strata.¹⁵

It can be inferred from the above discussion that to understand the issues of protection and safety rights of the minorities and find solutions to them, it is more important to first identify the deprived classes among the minorities so that the poverty-stricken strata can be protected and augmented and consequently, brought into the national mainstream. ●

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Dr. Shahid Akhter

Muslims are Integral Part of National Stream

The growth of Islam on Indian soil occurred along with the national mainstream. Whereas, the British, under its 'divide-and-rule' policy presented the two as totally separate entities. Hence, it will now be a blunder to view the Muslims with a different identity. An analysis

The famous 13th century Parsi poet Amir Khusro writes:
Gar firdous-e-bar ruyejamiast,
Amin ast, aminastaanaminast...

(If there is a heaven on this earth, then it is only and only India)

India's magnificence, affluence and coherence have been aptly described in these lines. Despite as many as 57 Islamic countries crowding the globe, India houses the largest Muslim population in the world. Violence and bloodshed are common place in many Muslim countries due to ideological differences whereas the camaraderie among different sects of Muslims in India has always been quite strong. The dark clouds of nationwide violence and riots have never hovered over this great country.

Islam in India

Much before Muhammad bin Qasim invaded Sindh in 711 AD, Islam had already entered India through the seaway. India had trade links with Mesopotamia (modern-day Iran) even during the Harappan times. Bahrain and Oman too were engaged in it. It is claimed that the Cheraman Juma mosque (629 AD) in Kodungallur of Kerala was built within the lifespan of the Prophet. Mahmud Ghaznavi attacked India

in the medieval period and the trend went on from Muhammad Ghor in 1206 AD to Mughal ruler Babar in 1526 AD. The religious policy of many Muslim rulers like Aurangzeb was based on bigotry whereas the Sufi saints adopted the policy of religious harmony and played a key role in spreading Islam.

It is not that there were no foreign invasions in India before Islam. Many foreigners like Shakas, Huns and Greeks had attacked India before. But not only the Indian culture remained unharmed despite the attacks, the Sanatan (eternal) culture of India rather absorbed these invaders into itself. The inscriptions of Heliodorus, the Greek ambassador of the Indo-Greek ruler Antialcidas, on the Garuda flagpole (known as Heliodorus Pillar situated in Madhya Pradesh) amply proves it. Heliodorus had become a follower of Bhagwat (Vaishnav) sect and declared himself as an exceptional devotee of Lord Vasudev (Vishnu). There is archival evidence of spread of Vaishnav sect in 2nd century BC. The invaders failed to impose their culture in India.

Indian Wisdom Illuminates the Arabs

The Arabian deserts hoisted the rise of Islam. Arab is encircled by the Red Sea in its west, the Arabian Sea in the

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south and the Persian Gulf in the east. In Syrian language, 'desert' is called as 'Arabat' and the word 'Arab' is derived from it.¹ When the Arabians gained victory over Sindh in 8th century AD, they had translated many Indian books into Arabian language. This is how Indian astronomy, mathematics, astrology and medical science had reached Baghdad. The Arabians also learnt a lot from musicology and architecture of India. According to Dr Stanley Edward Lane-Poole, the victory over Sindh was totally ineffective. Irish Indologist and art historian Vincent Arthur Smith also agree with him. According to British art historian Ernest Binfield Havell, the Arabians had taken lessons in diplomacy from the Brahmins of Sindh. Famous historian B.D. Mahajan says the Arabians learnt the decimal system, mathematics, astrology and medical science from India and also spread them across the borders.² According to Al-Beruni, the mathematical signs used by the Arabians are the best examples of Hindu symbols. 'Hindsa', the Arabian name of 'number', had originated from India only. During 2nd caliph Al-Mansur's period, Arabian scholars had taken the

books 'Brahma Siddhant' and 'Khand Khandbak', written by Brahma gupta, along with them and translated them into Arabian language with the help of Indian scholars.³ Caliph Harun Rashid (786-808) had invited Indian scholars to Baghdad and got the books on medical science, philosophy and astrology written in Sanskrit into Arabian language. He had even given the responsibility of inspection of the hospitals there to Indian 'vaidyas' (doctors).

Impact of Hinduism on Islam

When two religions come in contact with each other, it is natural that they will influence each other. The amount of impact Hinduism had on Islam is way much more than Islam affected Hinduism, effecting serious changes in Islam. Even today, Hinduism is striving ahead on its set path unhindered, beaming with stunning confidence and contentment.⁴ According to Gouri Shankar Bhatt, Islam assimilated the Hindu traditions and beliefs in it to a great extent in India. The Muslims also adopted the traditional Hindu system of establishing mutts

and religious seats. They even started giving importance to heredity in appointing 'Peers' and 'Sheikhs'.⁵ The Muslims also adopted some Hindu festivals. The 'Shab-e-Baraat' festival is a copy of the Hindu festival 'Shivratri'.⁶ Historian Dr Yousuf Hussain Khan writes: "There is every possibility that this festival (Shab-e-Baraat) is an imitation of 'Shivratri' festival of the Hindus." The fireworks are similar to each other's. The Sufi sect of Muslims was majorly impacted by Hinduism. There are whole lot of similarities between the "Prem Marg" (path of love) of the Sufis and the "Nirgun Bhakti" (devotion to the formless god) of Kabeer. The caste system of the Hindus has also impacted the Muslims. The Atala mosque of Jaunpur is an excellent example of Hindu architecture. According to Moroccan traveller Ibn Batuta, the Muslims have borrowed the tradition of chewing betel leaves from the Hindus.

Sufi Saints' Emphasis on Humanity

The Sufi saints played a major role in maintaining mutual love and harmony in India. They stressed more on kindness and tolerance. They also emphasised on purity of heart for realisation of God and did not like fictitiousness. The Sufi saints adopted Indian costumes. They fascinated the people by their pure, simple and righteous behaviour. Their 'Khankah' (hermitage) was open to all, without religious discrimination. The Chishti saints were highly popular. Khwaja Moinuddin Chishti has been referred to as 'Sultan-ul-Hind'. His mausoleum in Ajmer is a famous centre of religious



Genesis of Muslim Rashtriya Manch

■ Virag Srikrishna Pachpore

At the Eid Milan function organized by fierce nationalist, journalist, author and Padma Shri awardee Muzaffer Hussain and his wife Nafisa on 24th December 2002 at Chanakyapuri in New Delhi, the then Sarsanghchalak of Rashtriya Swayamsevak Sangh (RSS) Sudarshan Ji raised two questions during his discussions with other prominent persons present there. The first question was: “99.99% Muslims of India originally belong to this country only.

They have not come from outside. Why then do you people consider yourselves as ‘minorities’? Why don’t you consider yourselves as part of the national mainstream of the country?” And the second question was: “The real meaning of ‘Islam’ is peace, wellbeing and brotherhood. But the world sees Islam today as brutal, which spreads terrorism, violence and creates mayhem. Which is then the real Islam? And whose responsibility is it to present the real face of Islam before the world?”

Maulana Wahiduddin Khan, All India Imam Council’s then president Maulana Jameel Ilyasi and Sardar Trilochan Singh were among the prominent persons attending the function. The questions raised by Sudarshan Ji was unexpected and new to the Muslim leaders present there. Replying on behalf of all others, Maulana Ilyasi said, “Nobody has ever asked such questions to us till date. You are the first person who has created a stir inside us by raising such questions. But we cannot give an answer here and now. We will take these questions to our people in the community, discuss it with them threadbare and then only we can reply to you.”

Consequent upon this discussion, brain storming began over the necessity of forming a nationwide organization with a view to enlighten the members of the Muslim community on the issues of patriotism, education, employment, respect towards women, etc. The time when the meeting was held was quite tumultuous. The coalition government of NDA, an alliance of 24 parties, led by late Atal Behari Vajpayee was in



power. There was a violent reaction to the Godhra incident in 2002, and the Congress, Leftist and the so-called secular parties were using it for poisoning the minds of the Muslims against the Hindus, especially against the RSS. However, the Godhra incident and the reactions aftermath had set the Muslim leaders thinking afresh about the Hindu-Muslim relationship. They started feeling the need of forming such an organization at the earliest.

A proposal to this effect came from their side and they requested the RSS to help in this endeavor. After giving the proposal a serious thought and holding a lot of discussions over it, it was decided to float an organization in the name of Rashtravadi Muslim Andolan (nationalist Muslim movement) and the responsibility of guiding and patronizing it was given to the senior RSS ‘pracharak’ Indresh Kumar Ji.

The third all India convention of the outfit was held at the famous Moti Dungri mosque in Jaipur in 2005 peacefully despite the vehement opposition of the so-called secular parties. It is in this session it was decided to rechristen the organization as Muslim Rashtriya Manch (MRM). In his address, Sudarshan Ji said that “India is the land which spreads the message of peace. Mohammad Saheb himself had stated that whenever he felt restless or lonely, the cool breeze of peace used to blow in to him from the East, which means the Hind (India). Therefore, India is ‘darul aman’ (the home of peace), and this message should go to the whole world from here.”

Maulana Jameel Ilyasi answered to Sudarshan Ji’s questions at a joint program of Muslim Rashtriya Manch and Sarv Panth Samadar Manch in Ajmer in 2006. Declaring before more than 2,000 Muslims attending the program, he roared: “The Muslims of India are the original inhabitants of this land only. We and the Hindus share the same ancestors, culture and homeland. Hence, we Muslims are not minorities in India.” While bestowing adjectives like “torch-bearer of communal unity” on Sudarshan Ji, he said: “If there is a real friend of the Muslims

in India, then it is RSS. Parties like Congress are not our well-wishers, they are only concerned about our votes." The Mufti of Jodhpur, who too was participating in the program, said: "Islam has given

the message of wellbeing of all and brotherhood to the world. So, whoever conduct riots and inspire others to do it, they only defame Islam. So, we Muslims don't support them at all."

harmony. Qutbuddin Bakhtiyar Kaki, Nizamuddin Auliya, Baba Fareed, Salim Chishtietc were among the famous Chishti saints. Auliya believed that humans are born to live with mutual love and affection and there is no space for bitterness. All these saints stressed on humanity in their teachings. They served the poor and the destitute. These Sufi saints had adopted many a Hindu tradition. Their generosity had a telling effect on the people. Like the Hindu saints, they too used to carry a 'kamandal'. They even used to deliver their discourses in Hindi language.

The contribution of Sufis in promoting religious generosity was remarkable. It helped Islam give recognition to the Hindu traditions prevalent in northern India. They adopted music as a path to devotion. Sufi music concerts are known as 'samaa' (an atmosphere of association). Nizamuddin Auliya's disciple Amir Khusro immensely contributed to the development of Indian music in the medieval period. He popularised new musical variations, tunes and renditions as well as developed new musical instruments. Mohammad Ghaus Gwalior had also played an important role in enriching the traditional music. According to historian Imtiaz Ahmed, contribution of Sufis in the field of language and literature is also unforgettable.⁷ In the words of Nizami, the Urdu language originated in the Khankahs of the

Sufi saints. The initial books in Urdu were written by Sufis only. Baba Fareed, Hussain Shah and Bulleh Shah spread their thoughts by using Pobjabi language and Sheikh Ahmed Khattu used Gujarati language while Kutaban, Manjhan and Malik Mohammad Jayasiused Avadhi language and Brijbhasa for the purpose. The teachings of Baba Fareed can be found in Guru Granth Saheb also.

1857 Revolt & Hindu-Muslim Unity

The main feature of the 1857 revolution was Hindu-Muslim unity. Jolted by this rock-like unity, Britishers adopted the 'divide and rule' policy. Right from planning of the revolution to its implementation, both the communities fully cooperated with each other. The revolutionaries, the soldiers, the Hindus and the Muslims respected each other's feelings. Cow slaughter was immediately banned in a particular area where the revolution was successful.⁸ In view of the participation of Muslims in 1857 revolt, Lord Roberts and Mrs M.R. Coopl and described it as a 'Muslim revolt' while G.B. Malleon, Sir James Outram and William Tayler dubbed it as 'Hindu-Muslim plot against the British'. The 'ulema' (a body of Muslim scholars) even went to the extent of declaring 'jihad' (holy war) against the Britishers. The soldiers launched the revolution from the barracks of Meerut on 10th May 1857 and

declared the then Mughal king Bahadur Shah Zafar-II as their supreme leader. The real leader of the revolution in Delhi was General Bakht Khan, the army chief of Bahadur Shah Zafar.

In Lucknow, Avadh queen Begum Hazrat Mahal was leading the revolt. Her army men killed a British resident, Henry Lawrence. Though Colin Campbell won over Lucknow with the help of Gorkha regiment, the Begum refused to surrender and fled to Nepal. Assisting Peshwa Bajirao-II's adopted son Nana Sahebin Kanpur, Taty Tope and Azimullah Khan led the revolt from the front. Maulvi Liyakat Ali in Allahabad (Prayagraj) and Maulvi Ahamdullah Khan in Faizabad were in control of the reins of the rebellion. Ahamdullah had given a call to drive out the Britishers from India. Frightened over it, the Britishers had declared a reward of Rs 50,000 on his head. According to Vinayak Damodar Savarkar, "The life of this brave Mohammadan (Ahamdullah) shows that a rational faith in the doctrines of Islam is in no way inconsistent with or antagonistic to, a deep and all-powerful love of the Indian soil."⁹ The revolt was led by Khan Bahadur Khan in Bareilly and Mughal prince Firoz Shah in Mandsaur (MP). A farmer Madruddin raised the banner of revolt in Gurgaon and Mewat. The rebellion was carried out in Panipat under the leadership of the Imam (the

spiritual head of a mosque) of Bu Ali Qalandardargah there. Prayers were held in Jama mosque of Pune on 22nd May 1857 seeking victory of the revolutionaries. Sayed Hussain and Mangal, who were preparing to carry out the revolt in Kolhapur, Ratnagiri and Bombay, were condemned to cannon blow in the public. Saheed Hassan in Sultanpur and Ghulam Ghous and Sheikh Ibrahim in Madras put up a stiff challenge before the British at the local level. As per the annual chronicle of Qaisar-ul-Tawareekh archive, the number of Muslims, who were hanged during 1857 revolution, was 27,000 in Delhi alone. Not only Muslim men but women like Begum Zeenat Mahal and Azijan Bai also took active part in the revolution.¹⁰

Overseas Revolutionary Activities

Muslims had participation in the revolutionary activities on the foreign soil also. Dr Barkatullah was one of the founders of Gadar Party formed in California, US. Hassan Rahim established United India League in Canada and brought out an Indian newspaper there. Fifth Indian Native Light Infantry revolted against the British in February 1915 in Singapore, for which 47 people were hanged including Kashim

Ismail Khan and Manzoor. Abdul Reza Khan, Imtiaz Ali, Ruknuddin Khan, Havildar Suleman, Zafar Ali Khan and others were involved in this rebellion. Sayad Rehmat Shah was hanged for his underground revolutionary activities in France. Ali Ahmed Siddiki and Sayad Muztaba Hussain were hanged for planning a rebellion in Malay (Malaysia) and Burma (Myanmar). Gadar Party leaders Hafiz Abdullah and Rehmat Ali were hanged in Philippines. Ubaidullah Sindhi and Mehmood Al-Hassan tried to end the British rule in India with the help of foreign powers during 'Reshmi Rimal' movement. Indian nationalists had formed an interim government in Kabul (Afghanistan) on 1st December 1915. Mahendra Pratap was the President, Maulana Barkatullah was the Prime Minister and Ubaidullah Sindhi was the Home Minister in this government. Abbas Tayyabji, Hakim Ajmal Khan, Umar Sobhani, Dr M.A. Ansari, Maulana Abdul Bari, Maulana Hasrat Mohani, Yakub Khan and others were involved in the campaign against the Rowlett Act.

Hindu-Muslim Unity Need of the Hour

At present, the world is struggling with a pandemic like corona virus.

Under the efficient leadership of honorable Prime Minister Narendra Modi, our country is also fighting it out strongly. It is not possible to trade the path for the country to become the 'sonkichidia' (golden bird) and 'vishwaguru' (spiritual master of the world) again without unity between Hindus and Muslims. The message of the Prophet is loud and clear: "Love thy country." We should not allow the seed of 'divide and rule' policy of the British to germinate any more. The Muslim community has still milesto go on the education front whereas development is not possible without education. For the last several years, the Sarsanghchalak of Rashtriya Swayamsevak Sangh (RSS) Dr Mohan Bhagwat has been harping on strengthening this unity. He has also rebuked the people with glib tongue. The Muslim Rashtriya Manch (MRM) is dedicated to spread the nationalist ideology in the Muslim community under the slogan "Nation First". Indications of positive inclination of Muslim youths towards it are trickling in from across the country. Continuous increase in the number of the members of the Manch amply proves it. This historic work is going on under the experienced guidance of most revered Indresh Kumar Ji. ●

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R.L. Francis

Converted Christians Caught in the Vortex of the Church

Those Dalits who became Christians by being caught in the vortex of the Church, are now feeling cheated. Dalits who have been enticed into the faith by the promise of equal status in a global Christianity are being discriminated against at every step in the Church itself. A socioeconomic analysis...

Religion, as long as it is confined to personal experience, remains a faith or belief. But when empires are raised on the basis of religion, and multitudes of believers are created by coercion or deception, religion no longer remains merely faith but becomes an institution. As soon as it takes the form of an institution, separating itself from the realm of personal experience, religion starts becoming a seat of power to rule over others. People begin considering the insolence in its name to be divine. Discussion on the status of Christians in India is a continuing work. There are two main points of this discussion—first, the social, economic and political status of converted Christians, and second, the questions and growing tensions over the work (evangelism) of the Church.

According to the total population of India, there are about 20.4 million Christians, of which 60 percent are of Dalit origin. Whereas according to non-government statistics, the number of Christians is not less than 70 to 80 million. (This is because majority Christians lead a dual life, carrying two religions and one caste with them. They are Christians in spirituality and faith, i.e., strong followers of the Church and in the lure

of government facilities, they exist in the category of Hindu Dalits. In this, they also receive the tacit support of the Church.)

These Dalit Christians are today being continuously exploited and harassed inside the Church. They are being ridiculed in return for the sacrifices they made for the Church hundreds of years ago. Within Christianity, they are relegated to a secondary status. According to Christianity, God created man in his own image. On this basis, the Christian society “promotes human values and equality”. But in India, they are being segregated on the basis of birth and caste.

Who are Dalit Christians?

Taking advantage of the poverty, illiteracy and inequality in Indian society, Christian missionaries converted a portion of the population Christian, but even today, their lives wallow in inequality. For example, till now the Dalit who was only a Dalit, faced caste discrimination in some places. He was made a Christian, but this did not reduce caste discrimination against him in any way; now he faces religious hostility along with caste stigma. The Church brought into the fold of the cross crores of Dalits and marginalized people who

were suffering discrimination stemming from class status, inequality and prejudice in India, but after bringing them into its fold, instead of improving their standard of living, the Church today is busy in expanding its domain and followers. In total disregard of the plight of these marginalized converts, it wants to abandon them to the mercy of the government.

Dalit Christians are subjected to widespread untouchability and discrimination. This is not a statement by any right-wing leader, but the confession of the Catholic Church of India itself. For the first time in history, the Catholic Church of India has acknowledged that those Dalits who abandoned Hinduism to escape the scourge of untouchability and caste discrimination are still victims of the same, that too in the religion—global Christianity—into which they were induced into with the supposed promise of equal status and respect.

Whenever it comes to the well-being of converted Christians, the Church leadership talks about their development in a clever way, connecting them with Hindu Dalits. It says that their roots and problems are the same. While it is

true that they rebelled against the caste system of their communities and turned to Christianity, the bigger truth is that they did not have any notable relationship with non-Christian Dalits after their conversion. Everything from their rituals, symbols, living habits and way of life has changed. Their problems and sufferings cannot be equated with that of non-Christian Dalits. Dalit Christians do not merit the tag of Scheduled Castes today. There is a need to safeguard their social rights and provide facilities for their economic development, and to give them equal rights over the resources of the Church.

There are officially about 2 crore members of the Catholic Church in the country, of which 60 to 70 percent are Dalit Christians, i.e., people enticed from the Hindu faith by beguilement. According to the report published by Catholic Bishops Conference of India titled “Policy of Dalit Empowerment in the Catholic Church in India”, “Untouchability and discrimination against Dalits exists on a large scale in the Church. This needs to be abolished at the earliest”. The report of the Catholic Church states that Dalits are being treated unfairly and

there is a need for change in the Church so that adequate rights can be given to Dalits.

This report may open the eyes of those who do not want to look at the conversion activity of Christian missionaries. Leftists and some Dalit thinkers often say that it is better to quit a Hindutva that cannot give equality to Dalits. After the revelation by the abovementioned report, they must explain why Dalits are still in this quagmire even after coming out of Hindutva. In the same report, the Catholic Church has reiterated that they have been fighting for a long time to include Dalit Christians in the category of Scheduled Castes and they must obtain this privilege. The report also criticized the Supreme Court's rejection of the demand for reservation for Dalit Christians.

The Report of the Ranganath Mishra Commission

India has always been multi-religious. We are proud of our age-old religious tolerance. By raising the importance of their religion, some of its adherents have been observed adopting the tactics of converting others into their faith by greed, fear or deceit. This vicious cycle continues even today. Our country is now being pushed into a new phase of instability because of vote-harvesting politics. Reservation has become the biggest weapon of capturing vote banks.

The Indian Church is exerting pressure on the government to include converted Christians in the list of Scheduled Castes by amending the Constitution. After independence, the provision of reservation for Scheduled Castes was made in the Constitution of

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On the other hand, the report of Ranganath Mishra Commission has done the work of sowing the seeds of fear in the minds of the people belonging to the Hindu Scheduled Castes. The Misra Commission has recommended that Muslims and Christians should also be given the benefits of reservation given to Scheduled Castes by amending Para 3 of the 1950 order, as this order has been declared invalid for Buddhists and Sikhs. As they too have been given reservation similar to Scheduled Castes of Hindus, Christians and Muslims who convert from Hindu Dalits too become eligible for this right. However, this recommendation by the Ranganath Mishra Commission report is against Christian and Muslim tenets. The chairman of the National Commission for Scheduled Castes had opposed reservation for Christians and Muslims on the basis of religion.

On a petition seeking Scheduled Caste status to converted Christians, the Supreme Court had questioned whether there is a caste system even among Christians. The Supreme Court had also asked whether Christians would accept this fact on the basis of which they should also be listed as Scheduled Castes. Christian leaders argue that since a change of religion does not change a person's standard of living, nor raises their social status, they



Courtesy: <https://catholicmoraltheology.com/>

should also be included in the Scheduled Castes on par with Hindus.

The church leadership has been continuously pressurizing the Indian government to include Dalit Christians in the category of Scheduled Castes. The Indian Church leadership has been demanding, for the past several decades, the same privileges as the Scheduled Castes of Hindu origin for those who have converted to Christianity from the Scheduled Castes. This is because as soon as they change their religion, all the privileges of the Scheduled Castes, which are available to them while being Hindu, cease. For this reason, the number of people from the Scheduled Castes who convert to Christianity is very less compared to the tribal groups

in proportion to their population.

Conversion in India has happened for two reasons. First is the ferment against socio-economic inequalities and exploitation and second; individualistic thinking for personal benefit. In the hope of attaining freedom from the caste system and social oppression and exploitation, a large number of people belonging to the Scheduled Castes underwent initiation into Christianity. It is believed that there is no place for any kind of casteist discrimination or exploitation in this religion. But the church leadership has viewed the people hoping to attain salvation as mere statistics and instead of paying attention to their progress; it has focused only on expanding its empire. What

could be the greater irony for the converted Christians than the church leadership trusting whom they even abandoned the religion of their ancestors, betraying their faith. The same church leadership has undertaken the initiative of pushing them back into the same caste system.

The church leadership expanded its base among the marginalized sections under the temptation of there being no caste discrimination among Christianity and Dalits who convert to Christianity would be treated equally in this faith. It was only in the false hope of this supposed status of equality in Christian society that Dalits adopted Christianity. The Poor Christian Liberation Movement, an organization of Dalit Christians, believes that if the Church throws its entire left behind Dalit Christians, a huge change can be brought about in their social and economic life. If the huge sums of money being sent from overseas in the name of religious conversion are spent on their development, change can be brought in their life. But the reality is something else. The Church accords paramouncy only to increasing the number of its followers. Christians should not be divided on the basis of caste, and such solutions should be sought for their welfare so that the basis of a casteless ideal can be maintained and economically backward Christians can also benefit.

What Share do Dalit Christians have in the Resources of the Church?

Dalit Christians were never given any importance in the institutions run by the Church. They are in a

neglected and humiliated state in the largest Catholic Church of India. Can the Catholic Bishops' Conference of India (CBCI) and the National Council of Churches for India (NCCI) reveal the share of Dalit Christians in this vast church empire? How many schools have Dalit Christian principals and teachers? How many colleges have Dalit professors or deans? How many hospitals have Dalit doctors? By the grace of the Church, which proclaims its commitment to education by loud drumbeat, how many of those who became educated are in high positions in this realm? How many Dalit Christians are directors of the church's social organizations, which claim to 'save' the poor through thousands of crores of rupees of foreign grants?

Coming to matters spiritual, the state of affairs of Dalit Christians is very pathetic. At present, there are four Cardinals in the Catholic Church of India. None of these are Dalit Christians. There are 30 archbishops. Again, none of these are Dalit Christians. Then there are 175 bishops, of whom only nine are Dalit bishops. There are 822 Major Superiors in the Catholic Church. Of these, only 12 are Dalit Christians. Of a total of 25,000 Catholic priests, only 1,130 are Dalit Christians. Out of one lakh nuns, only a few thousand religious sisters come from the Dalit castes. About a decade ago, the church leadership in Delhi's St. Stephen's College had announced 40 percent reservation for Dalit Christians with great fanfare. In view of this, the Delhi Catholic Arch Diocese had also announced that it would give 30 percent reservation. When it came to implementation, St. Stephen's College terminated its

reservation programme within two years. The Catholic Church never implemented it in the first place.

A handful of clergy have come to monopolize the entire empire of the Church. According to former Karnataka High Court judge Michael F. Saldana, only 1.3 per cent of the religious community is able to exert its influence in the making of policy decisions of churches. 98.7 percent of the laity has no role at all. Over the past six decades, the church has sold properties worth thousands of billions of rupees. Society has no idea about where that money has gone. There are thousands of such churches in India wherein each church collects 2.5 million rupees per year. There is no model at all for spending these billions of rupees collected in the churches on the development of poor Christians. In the year 2002, the "Poor Christian Liberation Movement" in the country's capital Delhi had presented a ten-point demand charter to the Catholic Bishops' Conference of India and the National Council of Churches for India for the development of Dalit Christians.

In this, issues such as community participation in church institutions, prohibition of religious conversion, transparency in foreign grants, bishops being elected by the community instead of by the Vatican/Pope, creating boards to protect church properties were raised. This charter of demands was suppressed by the church leadership with all its deviousness. However, the activists of this movement are engaged in their work of spreading public consciousness in the Christian society. As a result of this, even in the Roman Catholic

Church, which is considered to be the most powerful Christian institution today, talk of the rights of ordinary Christians has started arising. The Church in India is neither ready to loosen its grip on church resources nor does it want to give up its fealty to the Vatican and other Western countries. The Church, flush with huge resources, wants to outsmart its followers and leave them at the mercy of the government.

The Vatican must Compensate Dalit Christians

The Church in India enjoys certain constitutional rights. There is no rule to monitor the amount of wealth the Church has amassed in India by abusing the constitutional clauses that protect language and culture. Whereas, in many Western countries such a system has been created and implemented. There is no law to govern churches and their institutions. The Church has the second largest landholding in the country after the government and that too, in posh urban areas. The Church, which claims to be only 2.5 percent of the country's population, has control of 22 percent of India's educational institutions and 30 percent of health services. Despite all this, the common poor Christian is dying while the church leaders in India are busy only in activities like agitating for freedom of religion and special status to their institutions.

A few years ago, a delegation of Dalit Christians (converted Christians) had submitted a memorandum to the then UN Secretary General Ban Ki-moon alleging that the Catholic Church and the Vatican were persecuting Dalit Christians. Dalit Christians

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are constantly being discriminated against in church institutions under the rubric of caste identity. The delegation demanded that they should be given equal rights in the Church and if the latter did not do so, the status of Permanent Observer granted to the Vatican at the United Nations should be abolished.

The Christian organization Poor Christian Liberation Movement demanded of Pope Francis and the Supreme Council of the Vatican and the World Council of Churches (WCC) that they use the money spent on evangelism for the development of Dalit Christians. They ought to give the right to elect bishops in the Catholic Church to ordinary Christians—presently it is the Pope of the Vatican appoints the bishops. There has been a demand to transfer church power among local Christians and to spend the money received from churches and church institutions on Dalit Christians. For this, the church must implement the practice of diversity in the institutions run under the aegis of its special powers.

Why a Dalit Church in the Catholic Framework is Necessary
Dalit Christian organisations from Tamil Nadu have proposed starting a new Dalit Church in

India. The newly formed Indian Dalit Catholic Sacrament (sect) would function only under the direct rule of the Vatican or the Pope. But earlier the convener of the National Council of Dalit Christians (NCDC) had said that “The new church will segregate Dalit Catholics from the casteist leadership of the Indian Catholic Church”. Naturally, the question now arises that if Vatican till the present day has failed to reform the Indian Catholic Church and mould it into a humanistic ideology, why should it not be put in the dock for betraying the faith of millions of converted Christians?

When Christianity rejects all kinds of discrimination, caste and creed and considers everyone equal in the religion, why should a Dalit Church be formed in India under the leadership of Vatican? Is it not so because this action plan is being carried forward to increase its influence among Hindu Dalits? The Vatican will also invest in building the newly formed Indian Dalit Catholic bloc when it has to function under the direct rule of the Pope. The new organisational structure will also serve to create new churches, dioceses and a variety of social research organisations. Obviously, in this, the appointment of clergy and bishop will also remain directly

with the Vatican. Then why should diversity not be implemented in the present Catholic Church and proper participation accorded to the converted Christians?

The idea of Dalit Catholic Church is nothing less than a betrayal of Dalit Christians. It is apparent that its merits are negligible while its propensity for harm is far more. Its aim is not to serve the interests of Dalit Christians, but only to convert Hindu Dalits to Christians by beguiling them. If this comes about sometime in the future under some conspiracy, what is the benefit from it to the already converted Christians? Dalit Christians in the Catholic Church presently number more than 60 percent, so it is effectively a Dalit Church. Millions of Dalits who have been oppressed, subject to inequality, discriminated against and socially marginalised in India for centuries have chosen the Church/Cross, but it is unfortunate that the Church is busy furthering its imperialism instead of bettering their social status and standards of living.

Dalit Christians are not able to derive any advantage of the vast resources of the Catholic Church because they are trapped in the maze of the Church. Social movement is negligible in Christian society. Converted Christians have been shedding their blood and sweat for the

church for many centuries, but what have they gotten from the church leadership in return? As part of a conspiracy, the Catholic Bishops Conference of India and the National Council for Churches in India, in collaboration with the World Council of Churches, the Vatican and many international missionary organisations, for the last fifty years have been running the so-called movement to include India's converted Christians in the list of the Scheduled Castes.

On the one hand, the Church is trying to entice Hindu Dalits into its enclosure, while on the other, it starts demanding to include them once again in the list of Hindu Dalits as soon as they come into the fold of Christianity. If they have to be kept in the category of the Scheduled Castes, then why is such fraud perpetrated in the name of religious conversion? By keeping more than half of its followers in the category of Scheduled Castes, the Church is engaged in weaving a web of administering Hindu Dalits the potion of Christianity while cleverly shifting the responsibility of their progress on the government.

Why the Silence over Discrimination in the Church?

In fact, under the system of the Church, it is only those who raise

their voice against oppression who are put in the dock. Virtually all this is because the main problem lies in the theology and outlook of the Church. The way the Church motivates its followers, especially the youth, to pray and come to church, cannot be conceived of in any other sect. Sunday school rules for young children are so strictly enforced that by the time they reach adulthood, they are so deeply moulded in obedience to the Church that even pointing fingers at the church system or the canonical law is a sin.

The life of a common Christian rests on three religious practices—baptism, marriage, and burial. All three are controlled by the Church. If one deviates even a little, the possibility of the sword of social ostracism and excommunication from the faith dangling on the deviant's head is very high. As far as evils like sexual abuse, corruption, immorality in the Church are concerned, the common Christian does not want to talk about these. This is because in every Sunday prayer he is taught how the Church is working to build the kingdom of God in the world. Overall, the message is disseminated in a hushed tone that they (i.e., the faithful) should not do anything that brings disrepute to the church and hinders its work.

In fact, the cultural renaissance Hindu society underwent from time to time did not happen with Christians in India for many centuries. No reformist current could flow between them. Whereas many great men like Maharishi Dayanand Saraswati, Raja Ram Mohan Roy, Veer Savarkar, Dr. Bhimrao Ambedkar, Jyotiba Phule, etc., have contributed a great deal to Hindu society by way of reform.

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Today, the followers of the Church all over the world are challenging its dictatorial authority. A breath of fresh air is hopefully flowing in the Church of Europe. But at the same time, there is no such breath of freshness in the churches of India. Here the priestly class is sunk in its indulgence, its followers helpless and its nuns suppressed.

Ordinary Christians should support those who are being exploited and persecuted in the church system. It is grievous for the Indian Christians that for hundreds of years, no reformist movement could take place within the Church in the country. The Church has established such dominance over the common Christians that it does not allow any reformist movement to flourish. From the womb to the grave, he it controls and governs the life of common Christians.

Official View on evangelism and Foreign Grants

The way the church leadership in Karnataka has opened a front against the Basavaraj Bommai government of the Bharatiya Janata Party over the Anti-Conversion Bill has been astounding. The Karnataka government believed that the existing law against conversion was not effective, making it difficult to implement the same. Interestingly, the proposed law does not perturb Muslims or minority groups like Sikhs or Jains. It is only Christian missionaries who seem worried. A few years ago, the Lingayat community, which had declared itself separate from the Hindu society and sought minority status for itself, was also in support of enacting an anti-conversion law in the state. The Karnataka

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government is of the view that conversions were taking place not only in the districts of north Karnataka but throughout the state. On the other hand, the Church leadership is of the opinion that the Christian population in India is only 2.1%, while in Karnataka this share is less than 1.87 percent. If conversion is indeed taking place, then why are Christian numbers not increasing, goes their argument.

Recently, the Union Home Ministry revoked the permission of several large Christian missionary organisations to receive grants under the Foreign Contribution Regulation Act (FCRA). Most of these organisations were active in the northern and northeastern states. According to the government, they were misusing foreign grants. In reaction to this, large Christian organisations have expressed their opposition to this decision at international forums. As a result of this, many international organisations have issued several reports on the alleged declining religious freedom in India. A large segment of these sections were already campaigning to

tarnish India's global image. This conspiracy of anti-India propaganda can be understood from the article "India's Christians Attacked Under Anti-Conversion Law; Arrest, Beating and Secret Prayers: Inside the Persecution of India's Christians" published in The New York Times as recently as the month of December 2021.

Parliament introduced several anti-conversion bills after India's independence, but none came into effect. The Indian Conversion (Regulation and Registration) Bill was first introduced in 1954. In this, it was mandated to register the licenses and conversions of missionaries with the government authorities. The Bill did not procure a majority in the Lok Sabha. This was followed by the Backward Communities (Religious Protection) Bill in 1960. Its purpose was to prevent Hindus from converting to "non-Indian religions". As per the definition of the Bill, it included Islam, Christianity, Judaism and Zoroastrianism.

This was followed by the Freedom of Religion Bill in 1979. It spoke of an "official ban on conversion". Due to lack

of political support, these Bills could not be passed in Parliament. In 2015, the Ministry of Law was of the opinion that laws against forced and fraudulent conversions cannot be made at the national level, as law and order is a state subject.

Over the years, several states have enacted “Freedom of Religion” laws to prohibit conversion by force, fraud or inducement. It bears iteration here that freedom of religion means the freedom to practise one’s religion and certainly not the freedom to induce or coerce anyone else to give up their religion to convert to a different faith. The research organization PRS Legislative Research recently released a report comparing existing anti-conversion laws in several states. Laws related to “religious freedom” are currently in force in eight states—Odisha (1967), Madhya Pradesh (1968), Arunachal Pradesh (1978), Chhattisgarh (2000 and 2006), Gujarat (2003), Himachal Pradesh (2006 and 2019), Jharkhand (2017) and Uttarakhand (2018).

In addition, Tamil Nadu passed similar legislation in 2002 and Rajasthan in 2006 and 2008. However, Tamil Nadu’s law was repealed in 2006 following

protests from Christian minorities, while Rajasthan’s Bills did not receive the assent of the Governor and the President.

The church leadership has challenged similar anti-conversion laws in the country’s courts in Uttar Pradesh, Madhya Pradesh, Gujarat, Jharkhand and Himachal Pradesh. The church leadership believes that the law of Uttar Pradesh is unconstitutional, both in spirit and in character. It is not right to make someone change their religion, but there exists the freedom to propagate all religions in the Constitution. The earlier anti-conversion laws were formulated in terms of evangelists having to explain their reasons for their activity, but the laws of Himachal Pradesh and Gujarat seek answers from those who convert to another faith. This is the reason for the new law of Uttar Pradesh stipulating that if someone files an objection to conversion, it will not be considered as a change in religion. The government is directly intervening in anyone’s right to change religion.

The use of foreign grants for the said religious conversions has always been a matter of contention. The governments of Western Christian countries continue to export fanatic fundamentalist

Christian missionary elements to countries like Asia and Africa for the purpose of conversion. This delivers them two kinds of benefits.

One, the attention of these fundamentalist elements is focused on non-Christian countries, due to which these elements cause lesser problems for their governments. Secondly, when conversions take place in countries like India through the aid of foreign grants, there is ease of gathering information and at the same time, influencing the host government’s policies in various ways through the converted people.

Some foreign powers, who were unhappy with the Kudankulam nuclear plant set up with Indo-Russian collaboration a few years ago, staged sit-ins using Christian missionary organisations for years to stall the project. V. Narayanasamy, a minister in the then UPA government, had alleged that some foreign forces had paid crores of rupees to a bishop from Tamil Nadu to organise a sit-in demonstration to get the project shut down. Action was also taken against four NGOs receiving foreign grants in this matter. The project took off only when the UPA regime took the help of Cardinal Oswald Gracias in this matter.

Another similar example is the Sterlite copper plant set up by Vedanta in Tuticorin. The church is believed to have a hand in the closing down of this plant too. If this plant, capable of producing 8 lakh tonnes of copper annually, had not been shut down, India would have become completely self-sufficient in the matter of copper. This was not to the liking of some countries; it is reported that those countries therefore

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used missionary organisations to spread propaganda by the clergy that this copper plant would contaminate everything in the entire city. Violence broke out after this propaganda and 13 people died in police firing. As a result, the plant was shut down. It remains shut and India presently has to import copper.

Evangelism and Rising Tensions

Religion remains a faith as long as it is limited to personal experience, but when empires are set up in the name of religion and groups are created forcibly or by coercion, it does not remain a religion but takes on an institutionalised form. And as soon as it assumes the form of an institution, separating it from the realm of personal experience, religion starts becoming an instrument of exerting one's rule over others.

In fact, for the last seven decades, the Church has not only not adopted any model of development for the converted Christians, it has instead used them as tools in the expansion of its domain. Today, there is no awareness among Christian youth regarding social and political matters. Church leaders are not able to inculcate any social and political philosophy among the youth, and make them aware of only the church's theology. It is

for this reason that a large number of Christian youth are becoming independent religious preachers.

Because of this, smaller churches too are coming up rapidly. An entire international network is active behind such smaller and independent churches. About two to three years ago, most churches in the rural areas of Uttar Pradesh had stopped functioning or were forced to shut down owing to tension. It was the US Embassy came forward to reopen these churches that had shut down, and got reopened all churches that were shut. Independent churches are proliferating like mushrooms.

International Christian organizations send large numbers of foreign nationals, especially youth, to preach in these churches, which has a profound effect on the local church. Many people coming from abroad stay here considering India as their land of work. Graham Staines and Gladys Staines from Odisha were similar missionaries (no civilized society can condone the inhuman action done to Graham Staines and his children). Mrs. Gladys Staines writing about her experience says that in 1981, under Operation Mobilization when she travelled from village to village in Punjab, Bihar and Odisha, she had met Graham Staines in Odisha. Although their homes in Australia are 30 kms away, they had never

met there.

The speed at which smaller churches are being set up in India is somewhat similar to the Chinese model. Propagating Christianity is banned in China. Big churches in that country work under government control. Such churches do not lay any emphasis on conversion. In order to increase their numbers, missionaries run churches in homes, hidden from the Chinese regime. But in India there is no such control. There are thousands of main-line churches here, which have complete freedom to propagate their religion, be associated with international missionaries and seek their aid and to run their own institutions in the country. Nevertheless, if independent churches continue to grow like a mushroom, it certainly needs closer scrutiny, because this is not in the interest of Indian Christians as well.

India presents a glorious and emulable example all over the world in terms of unity in diversity, respect for all religions, mutual tolerance, spirit of co-existence between people of different religions. There is no place for intolerance in the outlook of the majority Hindu community of India. Here every citizen respects each other's fundamental right to freedom of religion.

Various commissions set up by the government to inquire into the unfortunate incidents that have happened with the Christian community have pointed to the expansionist attitude of the Church behind these incidents. The Supreme Court of the country has also expressed the same view. The methods being adopted for the propagation of Christianity and unnecessary interference in

Religion remains a faith as long as it is limited to personal experience, but when empires are set up in the name of religion and groups are created forcibly or by coercion, it does not remain a religion but takes on an institutionalised form. And as soon as it assumes the form of an institution, separating it from the realm of personal experience, religion starts becoming an instrument of exerting one's rule over others

the faith of others are big reasons for the increasing tension, which we can ourselves end and create an atmosphere of harmony. For the past few years, programmes like 'Ghar Wapsi' (return of converts to their ancestral religion) have brought the issue of conversions into the fora of public debate. However, opponents of Ghar Wapsi have been raising questions about which caste those who have returned to Hinduism would now belong to.

During the Prime Ministership of Jawaharlal Nehru, an issue that came up for consideration was whether a person belonging to Scheduled Castes, renounces Hinduism by conversion and accepts Hinduism again would be considered a member of the original Scheduled Caste or not. The government decided that the re-conversion of such a person would be treated as a change in the original caste and he would be entitled to the privileges and aid of the members of the Scheduled Caste to which he originally belonged.

Obviously, the Constitution and the government had called it 'ghar wapsi', not conversion. Some people, went as they are of targeting the Rashtriya Swayamsevak Sangh (RSS), raise questions about where those reconverting to Hinduism would be fitted into Hindu society, and what their status will be. This issue too has an easy solution in the form of the letter written by the Nehru government to the states.

The Christian missionaries have made deep inroads into the Dalit and tribal society. The Indian constitution guarantees us the freedom of conscience. The constitution also gives the right to profess and propagate any

Today, there is an atmosphere of suspicion in the country regarding the Christian society. Such an environment hinders the development of any society. Our identity has become confined to that of evangelists who are only out to convert others. Not only Hindu organisations, Sikhs and in some places the Muslim society too is pointing fingers at Christian organisations. Such an environment in a secular country like India, where the Christian community has been progressing for centuries, compels us to introspect

religion. But there is a need to understand the fine line between preaching and conversion. If well organised outfits flush with resources—whose main goal is conversion of people of other religions—are allowed a free rein, how can campaigns like ghar wapsi be stopped? A decade ago, there were horrific riots in Odisha's Kandhamal district over the issue of such conversions, in which dozens of people lost their lives and property worth hundreds of crores of rupees was destroyed. Despite this, conversion continues in Odisha. In the book about Kandhamal *Early Christians of the Twenty First Century: Story of Incredible Christians from Kandhamal Jungle*, recently published by supporters of the church, it has been claimed that after the violence, people of the Hindu community are taking refuge in the Church.

Need for Introspection

Today, there is an atmosphere of suspicion in the country regarding the Christian society. Such an environment hinders the development of any society. Our identity has become confined to that of evangelists who are only out to convert others. Not only Hindu organisations, Sikhs and in some places the Muslim society too is pointing fingers at

Christian organisations. Such an environment in a secular country like India, where the Christian community has been progressing for centuries, compels us to introspect. The need of the hour is that along with our faith, we should also respect the faith of those who believe in other religions. I am reminded of a poem by Narayan Vaman Tilak, a Christian Brahmin poet from Maharashtra, and how relevant it is even today. Tilak writes:

"How fortunate and blessed are thee, my Motherland!
Innumerable are the sages, saints and seers from this land.
Not an aspersion on me is cast, though I am a Christian
Nor am I subject to suspicion or question.
Happily do they respect Jesus, who art my teacher
And of me they say, "Oh, he is our brother."

This is the time when the Christian community should make a social assessment of itself, so that it might know why the community is deprived of its salvation. Christians now need to introspect on how they can maintain a comfortable relationship with followers of other sects and how the Church in India can improve the living standards of its followers. ●

The Minority Issue in the Constituent Assembly

On 4 November 1948, the Chairman of the Drafting Committee, Dr. Bhimrao Ramji Ambedkar presented the 'Proposal on the Draft Legislation' in the Constituent Assembly. His speech in support of this proposal was an example of wonderful scholarship and unique oratory. Therefore, everyone praised him very much, but excerpts from this statement of his regarding minorities:

The Draft Constitution is also criticised because of the safeguards it provides for minorities. In this, the Drafting Committee has no responsibility. It follows the decisions of the Constituent Assembly. Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done. In this country both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of the minorities to start with. It must also be such that it will enable majorities and minorities to merge someday into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this twofold purpose. 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 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.

*Dr. B. R. Ambedkar,
4th Nov. 1948*

There was a strong reaction to this. Many members were in favor of it but most were against this statement. Selected excerpts from both sides:

If, Sir, our minorities had really taken this stand, India's history would have been different. After what has happened during the last two years, can we say that no minority took this stand? It is because a certain minority took this stand and said,

"We do not want to be ruled by the majority. Go to hell.", we had the tragedy of the last eighteen months. If Dr. Ambedkar was referring to India before 15th August 1947, I fail to understand him. How can he say that no minority stood for

safeguards and said, 'We do not want to be ruled by you'? It is because a certain organisation took the stand, "No safeguards. We do not want safeguards. We want a separate State.", that ultimately Pakistan came into being and we had to witness the tragedy of the past eighteen months.

In 1927, I as a student attended the Madras session of the Congress. MaulanaMahomed Ali and PanditMalaviya were both present there. There was a question about safeguards and PanditMalaviya made a moving speech that went straight to the heart. He said: "What safeguards did you ask from the Secretary of State for India or from the Government of India? We are here. What better safeguards you want?" After that speech, MaulanaMahomed Ali came to the rostrum, embraced Pandit Malaviya "I do not want any safeguards. We want to live as Indians, as part of the Indian body-politic. We

want no safeguards from the British Government. PanditMalaviya is our best safeguard." If that spirit had continued to animate us, we would have remained as united India, a single country, a single State and a single nation. This being so, I fail to understand what Dr. Ambedkar means by saying that no minority in India has taken this stand. The majority has always been willing to grant them safeguards, adequate safeguards. But the minority would have nothing to do with it. The minority in India took the same stand as Carson took in Ireland. That is why, to the detriment of the Irish body-politic division was resorted to, as was done in India, resulting in disturbance of the peace and progress of the country. /britian, great britain, united kingdom, ireland.

*HV Kamat,
5 Nov, 1948*

I am coming to that. Dr. Ambedkar has just said that the majority party should be considerate towards the Minority party. I say: we do not want them. You have provided in the constitution that 14 percent of the seats should be reserved for the Muslims. You still consider yourself 86 per cent and Muslims to be 14 percent. So long as you have this communalism, nothing can be done. Why do you say that Muslims are in a Minority. So long as you depict them in communal colours Muslims shall remain a Minority. When we come as members of a political party or as members of the Independent Communist party or as Socialists and then form a coalition party, then as a whole they will be arrayed against the rest. That can not last. You should hold fresh elections on non-communal basis, on the basis of joint electorates, and then whatever constitution you frame will be acceptable to us.

*Maulana Hasrat Mohani,
5, 4 Nov, 1948*

I do not think our minorities are minorities in the real sense of the term or the classes or groups accepted by the League of Nations. We all belong to the same race. We have all lived in this country for centuries, for thousands of years. We have imbibed a common culture, a common way of living, a common way of thinking. Thus I do not understand the meaning of giving these special privileges in Chapter XIV. It creates statutory minorities and to say that the thing will last for ten years only is to forget the lesson of the past. What happened in the past? You gave certain rights and privileges to Muslims as such and those rights and privileges, it was hoped, would in the course of time automatically cease, that the Muslim community would realise the futility of those special privileges and would associate itself with the common people of the land and give up those privileges. But the result was the partition of the country. Once you give to a certain group of people, not on their functions, not because they are doing something for the country, but simply because they belong to a certain group or class, certain special privileges, you perpetuate what is generally the fault in democracy, namely, the giving rise to of groups or classes which would do things detrimental to ends of the groups or classes they belong to Cliques and intrigues will do neither any good to the groups or classes they represent nor to the country, but in the name of that group or clique they will serve their own selfish ends. While it would stand in the way of a united nation it will not do any good to those classes or groups and would perpetuate what is, as I said, generally the defect in democracy. I would therefore suggest that this Chapter better be altogether omitted and if there are any safeguards, or any encouragement, necessary for the backward classes or certain other classes, there might be other means, namely, giving scholarship to deserving students, giving other financial help, opening institutions and other facilities which are necessary for their amelioration and lifting up; but to perpetuate division in the body politic, to perpetuate division in the nation, would be detrimental to the healthy growth of the nation and would do an incalculable harm to us and our posterity.

*Krishna Chandra Sharma,
5th Nov*

Joint electorates with reservation of seats is absolutely of no consequence to the minorities. It would do them positive disservice. The representatives who would be elected under joint electorate with reservation of seats would not be the representatives of the minorities for whom reservation is given. Even a false convert, or a hireling of the majority party would come in by the majority party. Therefore my submission is that this provision is detrimental to the interests of the minorities. If the two resolutions regarding the continuation of separate electorate or joint electorate with reservation of seats with a fixed percentage of votes of the community to which the candidate belongs which were rejected last time are not acceptable to the House, the minorities should forego this reservation of seats under joint electorates. Sir, this is going to create permanent statutory minorities in the country.

Kazi Syed Karimuddin,
5th Nov. 1948

Reservation of seats for Muslims can have absolutely no justification. After having divided the country on basis of two-nation theory with all its implications after having provided in the Constitution. Fundamental Rights some of which are justiciable, after having provided in the Constitution Directive Principles of Governance, after having provided in the Constitution for the adult suffrage, after having done all this, does anyone feel called upon to provide for any reservation ? In principle I am opposed to it. Let my Muslim friends not misunderstand me. They have got this country divided and we know to our cost what that division has meant. Punjab has understood it and Bengal has realised it. Therefore, those of you who are super-secular minded, by all means, give all manner of special representations to whom so ever you please but so far as the province of West Bengal and East Punjab are concerned, I beseech you to take your hands off. In the last session of the Constituent Assembly, I got a motion passed that so far as reservation for minorities etc., is concerned, exception must be made in the case of West Bengal and East Punjab; the House accepted it.

Lakshmi Kant Maitra,
5th Nov. 1948

I feel at this juncture that it is my bounden duty to express my gratitude in highest form possible to the Honourable Sardar Vallabhbhai Patel, the Chairman of the Advisory Committee for the highly satisfactory and equitable manner in which these rights have been meted out to the minorities by the majority party. I feel sure, Sir, that it is this satisfactory and equitable deal that will make the minorities cling to the majority through thick as well as thin, Sir, it is my earnest hope that these rights as they are laid down in the Draft Constitution will not be permitted to suffer in any way whatever during their transit through this Honourable House.

Joseph Alban D'Souza
6th Nov. 1948

I am really thankful to the majority community for the manner in which they have dealt with the minority question and I must say that there should be no complaint from any quarter in this respect. As far as our community is concerned, although the offer has been made for the reservation of seats, we have refused it with thanks. Similarly, yesterday Kazi Syed Karimuddin instead on removal of reservation of seats. This statement even at a later stage is very welcome. Just as when the majority community offered the reservation of seats to the Parsi community, we said: "No thank you, we do not want," similarly all the groups, I expect, Sir, will refuse with thanks the offer of the majority.

R. K. Sidhva,
6th Nov. 1948

There is no doubt that it has not been considered necessary to differentiate between the minorities and the majority and the citizens have been considered citizens in a general sense but even then it has been accepted that if some educational institutions are run by the minorities, the State should be able to aid them. It means that under this Draft it would still be possible to run the existing communal schools and educational institutions. I do not think that it is right to leave scope for such a possibility when we are free and the people of the minority communities and the majority community have to live as brothers. But the system of Grants-in-aid to such institutions would produce only such a result.

Shri Jainarain Vyas,
6th Nov. 1948

And I feel sure that if the minorities were to surrender the safeguards, they would be in a better and stronger position and they need not have any fear from the majority. If they surrender the safeguards and join the majority, coalesce with the majority and merge with the majority, we would have a stronger India and our ideal of nationhood would be realised earlier.

*B. A. Mandlo,
6th Nov. 1948*

The only means of safeguarding minorities is by adopting the system of proportional representation. A writer in the Round Table of March 1948 referring to this system and its working in Ireland said that this solved the question of reconciling justice to minorities with the necessities of a stable Government.

Then I come to the Services. What a strange contrast - In the Legislature you have got statutory reservations where they are meaningless, but when you come to the Services it is merely said their claims shall be considered.

*Z. H. Lari,
8th Nov. 1948*

I might explain a point which was made by the previous speaker, viz., that the personal law of the minorities should be safeguarded. The majority need not have the safeguard, because they are the majority, and nothing can be passed in the legislature without their full consent and concurrence, whereas, the minority have not got this privilege and therefore it is necessary that the personal law of the Muslims and other minorities who so desire should be preserved from interference by the legislature without the concurrence of a vast majority of the members thereof.

I appeal to the House that they should forget and forgive the past. It is very painful, Sir, to be reminded every day that we are responsible for bringing Pakistan into existence. In its creation the Congress was as much a party as anybody else.

*Hussain Imam,
8th Nov. 1948*

It is true, Sir, that last year on the recommendations of the Minorities Sub-Committee, this House accepted the principle of the reservation of seats for certain communities. At that time also I was opposed to this reservation of seats, and today again I repeat that in the new set-up with joint electorates it is absolutely meaningless to have reservation of seats for any minority.

*Begum A. Rasul,
8th Nov 1948*

Nobody can deny that minorities do exist in this country. No amount of denial can efface these minorities from the face of India. You know Sir, that democracy means rule by majority. The majority is always there to rule and the minority will always be there at the mercy of the majority.

*Monomohan Das,
8th Nov. 1948*

In the matter of safeguard to the minorities, I think what is now provided in the Draft Constitution is a welcome thing; but there is still in the provinces a strong feeling against these safeguards. I honestly feel that they must be enforced in all ways.

*V. I. Muniswamy Pillai,
8th Nov. 1948*

In my view there should not only be reservation of seats but these seats should be filled up through separate electorates. I don't find any other alternative if you want to give the right to these minorities to express themselves before the majority community, before the country and before the legislature.

Again, when we talk of these separate electorates communalism is brought forward.

*Mohammad Ismail Khan,
8th Nov. 1948*

As has been pointed out in the spirited address of our Prime Minister this morning, while regimented unity will not do, nothing should be done which will tend to perpetuate the division of the nation into minorities and to prevent the consolidation of the nation.

*Alladi Krishnaswami Ayyar,
8th Nov. 1948*

In his speech, our friend Dr. Ambedkar referred to the question of minorities. He referred to the proceedings of the Irish Conferences about partition. But, he forgot that if there was a Cosgrave to say there, "To Hell with your safeguards; we do not want to be ruled by you," there was the entire English Government to back him up. We have none so here now. I am certain that no minority now will genuinely wish to have any such separate State.

*Govind Malviya,
8th Nov. 1948*

Sir, in regard to the minorities, I am certainly not in favour of the reservations so far as the great Muslim community is concerned; they certainly cannot claim any longer to be such a helpless community as to be in need of these. One of those friends have come forward to say that they do not want to have these reservations.

*Prof NG Ranga,
9th Nov. 1948*

I then come to the question of minorities. I am sorry that Dr. Ambedkar made the statement that minorities are an explosive force which if it erupts can blow up the whole fabric of the State. I say that these minorities can do nothing of the sort. The reason is simple--they are not factual, they are a mere fiction having no existence. I throw them a challenge. They have no right to be separately represented here. Whom will they represent? The fiction of minorities was a British creation. The Scheduled Castes are not a minority at all, simply because a few castes of the poorer classes have been enumerated together in a schedule, they have become a "scheduled minority". This minority is a mere paper minority. It is being perpetuated now because some of the opportunist families among them want to reserve their seats in the legislatures. Those people who took pleasure in calling themselves a minority have migrated away from here. It is only those who believe in one State that remain. Therefore, Sir, there is no minority now and there should not be any provision for minority representation here, because this has proved ruinous to the so called minorities themselves. Take the Muslims. I had seen in Dehra Dun personally, and I know what their reactions are. They are an absolutely demoralised people today. Even the ordinary rights of citizenship they are not morally free to enjoy. They are so cowardly today that they cannot stand erect in India because of the wrong lead they had followed in the past. Therefore, Sir, I would ask the Scheduled Castes, the Sikhs, the Muslims and the other minorities and for the matter of that even Hindus not to ask for any kind of reservations for them. We are a secular State. We cannot give any recognition or weight age to any religious group of individuals. I could understand their claims as majority or minority if they, had belonged to different races. Beliefs or creeds are a purely individual affair. I also refute Dr. Ambedkar's claim that the majority in India is "basically a communal majority". The majority party is Congress, which is purely political. .

Mahavir Tyagi, 9th Nov. 1948

There is another matter which has been referred to by him; that is in regard to the character of the majority. He says, "the minorities have loyally accepted the rule of the majority which is basically a communal majority and not apolitical majority." I do not know what he has at the back of his mind. There was only one party which functioned on the political plane and on the Governmental plane, the Indian National Congress, which was entirely a non-communal organisation and a political party. And yet Dr. Ambedkar says it is 'basically a communal majority', which is not true in fact. I must say it is wrong, mischievous and misleading.

L. Krishnaswami Bharathi, 9th Nov. 1948

This debate on the draft lasted in the Constituent Assembly from 4 to 9 November 1948 i.e. for 6 days. These excerpts have been taken from the Constituent Assembly of India Debates (Proceedings) Vol. VII.

Speech-1

Two Opinions on One Divisive Legislation

On November 4, 1948, Dr. Bhimrao Ramji Ambedkar, the chairman of the drafting committee, presented a 'proposal on the draft of the Constitution' in the Constituent Assembly. His speech in support of this proposal was an example of wonderful scholarship and unique oratory.

Therefore, everyone praised him very much, but this part of his statement about village panchayats

On 27th of August 1947, Sardar Vallabhbhai Patel, chairman of the Minority Rights Advisory Committee, proposed to abolish the 'separate electoral system' and approved the 'joint election method'. The Muslim League introduced an amendment vociferously opposing it, generally all Muslim members were in support of the amendment. They were led by B. Pocker Sahib Bahadur from Madras (now Chennai). His full speech:

B. Pocker Sahib Bahadur:

Mr. President, Sir, I must congratulate the Hon'ble the Mover of the motion for the spirit in which he moved it and for appealing to the House to forget the past and to carry on the discussion in a friendly spirit I very much welcome that spirit and I shall certainly conform to the wishes of the Hon'ble the Mover. You know, Sir, that we are in very critical times, and every word that is said here will go very far either way, either to cementing the friendly relationship or creating dissensions among the people. Therefore, Sir, I have this in my mind when I have to propose my amendments in which I may have to differ from the Hon'ble the Mover and the recommendations of the committee. With

these remarks, Sir, I shall move my first amendment which is on the agenda. My amendment runs as follows:-

"That on a consideration of the report of the Advisory Committee on minorities, fundamental right etc., on minority rights this meeting of the Constituent Assembly resolves that all elections to the Central and Provincial Legislatures should, as far as Muslims are concerned, be held on the basis of separate electorates."

In making this motion, Sir, I am fully aware that there is a very strong section who feel differently from me and who not only feel that separate electorates are not desirable, but who also feel that it is the separate electorates that have

been responsible for so many ills which have attacked this country and which are responsible for so much of misunderstanding that has caused so much harm to the country. Now, Sir, I would submit that in considering this question Honourable Members of his House should comply with the request of the Honourable the Mover and forget the past and begin with a clean slate. They ought not to apply their minds to this question with any pre-conceived notions which they might have entertained during recent years. They should forget all that has happened in the past and look at the question only with the view as to how far this provision which I am proposing will be useful in developing a better understanding between the communities and how far it will contribute to the happiness of all the communities concerned. I would request them to divest themselves of all ideas of past incidents and look at the question entirely from the point of view as to how far it is necessary and advisable to cement friendly relationship hereafter and to see that all the communities in the land are contented and whether this provision will not lead to the happiness of all the communities concerned. I will request you to begin with the premise that it is our primary and fundamental duty to make the constitution in such a way that it will satisfy all communities and be conducive to contentment among all communities I hope, Sir, that the House will agree



with me in saying that if important communities are left discontented and if they are left to get on with the feeling that they have not got an adequate voice in the governance of the country, that is an evil which we will have to avoid at any cost. The contentment and satisfaction of all communities in the land is the *Sine qua non* of a good constitution which it is our religious duty to make here.

In some of the speeches I found that regret was expressed about the existence of

what are called the minorities or perhaps minority communities. As a matter of fact there is no use in our going against human nature and having before us ideologies which are impossible or realisation Human nature being what it is, there are bound to be minorities and minority communities in every land; and particularly in such a vast sub continent as India they are bound to exist. and it is humanly impossible to erase them entirely out of existence. What we can do is to minimize differences between them and to do things in such a way that all minorities are satisfied and feel they are contented. In this matter there are two principles which have to be kept in view. There must be a spirit of give and take on the part of various communities and particularly on the part of the majority community there must be a spirit of generosity. They should not measure things on an arithmetical or mathematical scale and try to argue points. When some minorities are working under

great disabilities and feel that they have not had their share in the governance of the country, adequate provision should be made so as to satisfy them. Even if the majority feel that any particular minority is not right in claiming a particular method of achieving their end, even there I would say there must be a spirit of give and take and the majority community should be generous, and I appeal through you, Sir, to Hon'ble Members of this House to keep this particularly in view, and also remember that after all, if this generosity is exercised by the majority, community, they are not going to suffer. The majority is a majority and the minorities are minorities. If by some special measure which may be proposed, some particular minority community gets a little more than what it deserves, according to their population or some such thing, even the majority community should act in a spirit of give and take and display a generous spirit. It is in this spirit that I appeal to the House to look at this question. I have to make these preliminary remarks because I know there is a strong feeling against separate electorates in a large section of the people. It is also found in the Report of the Minority Committee and that of the Advisory Committee. They feel that it is a very dangerous thing to have separate electorates, or to recognise the principle of having separate electorates.

Now I have to tell you that there are various communities in this land and various minorities, and it is impossible in the very nature of things to erase them out of existence. As I have already said, it is our duty, it is the duty of those who make the constitution to make it in such a way that there are provisions in it to keep all of them contented.

Then, the next thing is how to give full effect to these considerations. I submit, Sir, that so long as it is recognised that the minorities should be kept satisfied, that their views and their grievances should be

given an effective voice in the deliberations of the Legislature, I do say that the only way is to get at that man in that community who really represents that community. On the other hand, if you say that community has: no right to exist as a community, and that it should be effaced by one stroke of the pen, then, Sir, I am certainly out of court. But you have to recognise, and it, is absolutely necessary to recognise, that there are communities with vital differences among themselves, whether on grounds of religion or other differences. There are such communities, and it is our duty to provide for them constitutionally, that they are all adequately represented and the best and only effective way in which any particular community can be represented is by laying down a procedure by which the best man who can represent that community, who can voice forth the feelings of that community is elected to the legislature. That is the, sole criterion on the basis of which we have to look at this question. The question now is whether in order to achieve that end, it is necessary to have separate electorates or not. That the interests of the communities should have a representation in the legislature is conceded even by the Report of the Committee. The only difference is that they want to achieve that purpose by some other means and I say by that means the end will not be achieved at all. What the Minorities committee says is, "*Reserve a certain number of seats to candidates belonging to that particular community but on the basis of the joint electorate*". Then, it is that person whom the majority community backs that will be elected. Perhaps that man may be a man liked by the majority under the guise of belonging to, the minority community. There have been instances in which Muslims and Hindus joint together, in the old days of Non-Co-operation, and boycotted all legislatures, and simply for the sake of fun, some illiterate sweeper

or scavenger, or some such person, was put up as a candidate as coming from a particular community in order to make a mockery of the, whole show. If that could be done in those days, what I am asking is, whether such things will not reoccur. Of course it all depends on the spirit in which the question is viewed, but I say the mere fact that a particular member belongs to a particular community is not a guarantee that his views represent the views of that particular community. That particular community, if at all it is to be represented, has got to elect the right man from among the members of that community. That is my appeal to you. If a worthless man or a man who is not capable of even understanding the needs of the community is elected from a particular community, he cannot be expected to represent that community simply because he is labelled as one belonging to that community. I submit, Sir, this is the criterion which should decide whether this report has given effect to the principle which they have accepted, namely, that the minority communities should be represented on the legislature. If, on the other hand the existence of the minorities and their right for representation are denied, well, then I have nothing more to say. But I would request you to approach this question in a generous spirit. I would request the Hon'ble Members to remember the days in which in pursuance of the Lucknow Pact of 1916 separate electorates were recognised and the spirit in which both communities moved as brothers in the non-co-operation days of 1920. Now, Sir, if the communities were able to move as brothers and sisters in those days and they could lay the foundations for the achievement of independence which we have now gained, I do not see any reason why we cannot hereafter work on the same principle as brothers and sisters and work as members of the same family and make India one of the proudest nations in the

comity, of nations. It is up to us to make India the foremost nation in the world, provided we act in a spirit of cordiality and friendship. In view of the spirit in which we were working in 1920 in the non-co-operation days, I say it is possible for us to work in the same spirit hereafter also. And I submit to you Sir, that it is up to the Members of this House to set an example by divesting themselves of pre-conceived notions that all the ills of the country were due to this system of separate electorates. I do not want to enter into discussions as to the correctness or otherwise of this notion. My only appeal to you is to join the Hon'ble Mover in asking you to forget the past and to act in a friendly spirit in the future.

I have to emphasise one point. The legislature is intended to make laws for the whole country and for all communities, and it is necessary that in that legislature the needs of all communities should be ventilated. I would submit that as matters stand at present in this country, it will be very difficult for members of particular communities, say the non-Muslims to realise the actual needs and requirements of the Muslim community. I say that even if a non-Muslim does his best to do what he can for the Muslim community, to represent their views, he will find it impossible to do so because he is not in a position to realise, understand and appreciate the actual needs of the members of that particular community, so long as he does not belong to that community. They will find it practically impossible to know, exactly what the needs are. There are ever so many questions, particularly hereafter, which the communities will require to be ventilated in the legislatures. There may be legislation concerning wakfs, marriage, divorce and so many other things of social importance, I request the House to consider this matter from the reverse point of view. How would the Hindus feel if the Muslims were to represent their

grievances in the legislature and provide effective remedies as regards say, temple entry marriage customs etc. ? I do admit that there may be efficient men on either side possessing knowledge of the needs of both Hindus and Muslims, but they will not be many. Therefore it is that I say that the principle should be, that the best man in the particular community should represent the views of that community and this purpose cannot be served except by means of separate electorates.

One more point I wish to place before you is this.. This institution of separate electorates was being enjoyed by the Muslim Community from the first decade of this country, i.e, for over 40 years and now the moment independence has been obtained it is being abolished. It would be a very sad thing, I submit, to give rise to the feeling among Muslims that at this critical stage they are being deprived of the benefit of this institution now and that they are being ignored and their voice stifled. I request Honourable Members to avoid such a contingency and the creation of such a feeling among the Muslim community of India.

One other point I would like to mention is this. The Muslim community is well-organised. It is very necessary in the interests of the country as a whole that each of the important communities should be well-organised, so that all and come together and arrive at an understanding for the future governance the country. At present the Muslims are strong and well-organised. Now, if they, are made to feel that their voice cannot even be heard in the Legislature, they will become desperate. I would request you not to create that contingency. You are fully aware that at present there is very little difference between the Congress and the Muslim League as regards their

objectives. No doubt, till recently they had wide differences, but somehow or other, wisely, or unwisely, rightly or wrongly, they have been solved and an agreement has been reached between these two great organisations. The fundamental point on which they differed has been resolved and there is no difference really now. At this stage they must join hands and destroy the subversive elements in the country. I am sure you will agree with me that there are a large number of elements in the land which are subversive and which act against law and order. Provincial Governments have taken full power in their hands to pass Ordinances in order to put a stop to these elements. Now, I appeal to the Honourable gentlemen of this House, both Congressmen and Muslims and other communities, to join hands and act together so that these subversive elements which have raised their head at this critical juncture of the history of this great land may be put down, and in order to do that, I say in spite of the great difference of opinion that exists today, granting of separate electorates to the Muslims and allowing Muslims to have their voice heard in the Legislature so as to enable them to act hand in hand with the Congress will be the best method. Otherwise, these elements will be a very great danger to the safety of the people of the land, not only internally but also externally. I do not want to be more explicit on the point because I know that Hon'ble Members understand me when I say this. With these few words. Sir, I move my amendment.

There are, Mr. President, other amendments of which I have given notice. They come under one or other of the items in the Appendix and therefore, I reserve my right to move them.

The amendment and the motion are now open to discussion.

Source: Constituent Assembly of India Debates (Proceedings) Volume V, 27th of August 1947
https://www.constitutionofindia.net/constitution_assembly_debates/volume/5/1947-08-27

Speech-2

There was a strong reaction in the House to Paker Sahib's speech. In response to this was the speech of Shri M. Ananthasayanam Ayyangar, Member of the Indian National Congress

M. Ananthasayanam Iyengar (Madras: General):

Sir, I am extremely disappointed at the speech made by the previous speaker. I thought that after having obtained Pakistan my friends in India would change their attitude. I really wonder what more can be done, we are going too far and are trying to placate them in every possible way. I have got here the treaty entered into by Turkey regarding the protection of its minorities on 24th July 1923 at Geneva. I ask any of the protagonists of this amendment, to show me a single instance where in any part of the country, in any part of the world a political right has been conceded in the manner in which it has been conceded here. I ask the indulgence of the House to read article 39 of the Turkish treaty. It cannot be said that there is a greater nation in recent years standing for the rights of Muslims in the world than Turkey. Let us see what rights they have given to the other minorities in Turkey and what rights they have insisted upon for their nationals in other countries. I have got here the two sides of the picture. There are the two agreements, printed in Constitutional Precedents No. III. I shall read article 39:#

"Turkish nationals belonging to non Muslim nations will enjoy the same civil and political rights as Muslims."

These rights they do have. That only means that they are entitled to stand shoulder to shoulder with the rest of the community, to stand for any seat anywhere without being trammelled, without being

ineligible for any particular post or office. By all Means, let them win the confidence of the entire community. That is the only way in which they can come together. What is the other method, I ask the Honourable Member. The germs of his complaint were sold since 1916, not by us, but by the Britishers. Let me go back into the history of our land a little earlier, though it may take some time of the House. Hindus and Muslims fought shoulder to shoulder as early as 1857. Let us not forget that we wanted to reinstate in our country the rule by our own people, whether Hindus or Muslims, wherever they were, in various parts of the country. They joined in a strenuous fight for the release of this country and for its independence. By whatever names the western historians might call it, it was a battle for independence. Then, the British Government wanted to play one community against the other. Sometimes they favoured the Hindus and sometimes the Muslims. It is no doubt true that some respectable and patriotic Europeans were the authors who put the idea of starting the Indian National Congress in our minds. It is no doubt true, but, what did their successors do? They found in a short time of fifteen years that the ideas of independence had come to stay in this country. It was dangerous for them and therefore in 1903 Lord Curzon wanted to separate the Hindus and Muslims in Bengal. No man or woman, not even a child, would sleep until the arrangement for partition of that province was annulled. Once again we came together and today on account of separate electorates we are

separate again. I am told, Sir, that one day in 1916 a European who was responsible for separate electorates in this country wrote to his friend in England that he had achieved one of the best things in the world, viz., separating the Hindus and Muslims. There is no doubt that difference between the Hindus and Muslims do exist. One prays towards the East



and the other toward the West. But there is also a common bond. Mohammad started his religion to bring the various warring elements together under a common banner. Religion in ancient days was an integrating power. There must be a common platform on which all could stand. I look forward to that day when humanity will be one, when all castes and creeds will disappear, (*Chieer*) when children are asked as to what religion they belonged, they may say, "I do not belong to any religion but I am an Indian and do take pride in being one". I look forward to the day when there will be no difference. Even a child knows that the sex of the mother is different from that of the father. Though one electric bulb may be white and the other red, the current that is running through is one and the same. A philosopher is necessary to come and say amidst all these happenings, 'Let us bring millenium on earth'. In my part of the world, the Madras Presidency, though the

Muslims are in a minority, they also joined in this move for separating the country. Have you a paralleled to this carriage that is going on in the Punjab whoever may be responsible for it? It is a disgrace to our ancient religion and the religion of the Prophet. Neither the Seers nor Maharishis, if they will be looking on, will be satisfied with what is going on

in the country. Is it not time for us wisely to consider what is responsible for this? We are all brothers. Can it be said that Mr. Pocker is different from myself? He speaks Tamil and I also speak Tamil. He cannot speak in Hindustani whereas I am able to understand and speak Hindustani in a smattering way. If tomorrow I become a Muslim do you think I will become less of a Madrasi? Unfortunately the country has been cut up and those people who may be responsible for it may be Proud of it. After all it is like a fight between two brothers. I am a lawyer and I know of cases where a younger brother files a suit against the elder brother and where the elder brother says that the younger brother was not born to his father. After the case is over if there was marriage in elder brother's house the younger brother refuses to attend the same and the elder brother says. It is no doubt true that we fought, but I am not going to celebrate the marriage if my younger brother does

not attend it? Similarly someday Pakistan also may come back to us. What will be the effect of my friend Mr. Pocker's amendment? You go in the morning to the mosque and I go to the temple. But there will have to be a common platform where we have to join together on many matters. If there is famine we will all have to fight it. We expect if there is to be joint electorates, we will come together some time. Under the joint electorate system a Hindu can represent the Muslims and a Muslim the Hindus. I will represent much more than you do because I know I am not a Muslim and as such I will always have an inferiority complex and so look after your interests well. So why not take advantage of that? My friend Mr. Pocker says "*I want a good, honest representative*". What is the definition of goodness? Goodness does not come by being a Muslim or a Hindu. I believe he wants a man who effectively supports the Muslims cause. When there was carnage in Bengal, we did not bother to enquire how many were Hindus and how many were Muslims and we do not know even to this day. Unfortunately Hindus also sometimes feel "*we are still human beings; when the country has been divided, why should they be protected still? Let this business, be done away with*". For Heaven sake avoid all this. Now he says that he is not the proper representatives of the Muslims who has not got their confidence. Even a Hindu or a Muslim Priest will run the show if India is to become a Religious State instead, of a Secular State. Nothing more than that. Therefore these are not the things that will bring us together. I am a Hindu and if you allow me to represent you, I will come to you at least every, 4 years. Similarly a Muslim can come to the Hindus. Ultimately we will come together. This is possible only if we have joint electorates. If I do not come on his vote, if I am not his representative, what on earth

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is there to bind me to him? From the practical point of view, I ask my friend who moved this amendment if he is, one or five or twenty in a House of two hundred, what is it that he can do without the co-operation of the others? Is he going to preach here Islam or read the Quran? Will I be allowed to the Vedas here? In this House, what is it one can do without the help of the majority? I expect very soon a secular State will arise here. Are you going to stand between us and the establishment of a secular State? Will you not profit by the events recorded history? What was America 150 years ago? Will you not take a leaf out of their history books? 150 years ago, persons who were driven from their soil, sailed in S. S. May flower in search of other lands and reached "*West India*". That is the present America. Today they are the masters of the world in the economic field. They are the persons who today do this and that. They are teaching our people, who knew these things 5,000

years ago, how to clean our teeth and wash our faces. They do not know the fact that we do not take our food without first taking a bath. They come and tell us these things because, on account of the disintegrating forces working in our country, they have stolen a march over us. Did not the Italians, the Frenchmen, the Spaniards and others come together in the continent of America? Therefore it is up to us to create a secular State. It would no be wrong for me to quote Mr. Jinnah in this connection, whatever, he might have said before Partition. He said: *'My idea is to have a secular State here'*. Somebody asked :*"Religious or secular?"* He said: *'Hindus and Muslim are alike to me. They must have equal opportunities'*. I am trying to make a common nation for both of us. Why should our Muslim friends who owe allegiance to Mr. Jinnah and whom they revere as I do, think differently in this matter? I am not prepared to call a single individual a minority. I do not like the word '*minority*' at all. Therefore I am saying that I am opposed to this amendment.

Mr. B. Das:

Mr. President, may I ask whether we are to be allowed to discuss the things we have discussed for years again here on 'the floor of this House'?

President:

I appreciate the point of order raised by Mr. B. Das. I expect Members to confine themselves to the subject matter of the motion which it is true is such that we can talk interminably on many points. I expect Members to have an eye on the clock also.

Mr. Ayyangar has already taken more than 20 minutes.

M. Ananthasayanam Ayyangar

Yes, Sir, but this is the first time I am speaking on this subject which is uppermost in our minds. It is not easy not to refer to certain happenings. in the Punjab, of the 165 civilian officers who were sent from here to Karachi by train, only two have returned. They have come back to India. That is the news in the "*Hindustan Times*" yesterday. What has become of the 163 civil servants, belonging to the Secretariat at Delhi? Their fate is not yet known. I would spend not 20 minutes but even 20 years weeping and crying over happenings such as this I am trying to find a solution. I am trying to request my friend Mr. Pocker and appeal to him once again to develop a secular State. Ample provision for cultural, linguistic and educational matters has been made. And if there is any difficulty, let us sit together and surmount it. Let not the interest of any single community or Individual be sacrificed for the cause of the rest.

As regards political matters, let us sit together and solve our problems. We have patched up our differences: if now we can build up a secular State, we can rear up our heads as the foremost, nation in the world. We have nowadays been thinking of the culture of the West. The sun of wisdom that rose in the East has set in the West unfortunately. Let us revive that Sun. Let us make him rise gloriously in the East. With these few words I request my friend Mr. Pocker and the other gentleman who has joined him in tabling this amendment to withdraw it and stand unanimously for joint electorate. (Cheers)

Source: Constituent Assembly of India Debates (Proceedings) Volume V, 27th of August 1947
https://www.constitutionofindia.net/constitution_assembly_debates/volume/5/1947-08-27

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कोरोना संकट में भी थमने नहीं दिया विकास पूरी हुई हर हिमाचली की आस



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- 2.21 लाख पेंशन के नए मामले किए स्वीकृत

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- 3.25 लाख परिवारों को दिए निःशुल्क गैस कनेक्शन 119.90 करोड़ रुपये खर्च

मुख्यमंत्री हिमाचल हेल्थ केयर योजना-हिमकेयर

- 2.40 लाख लोगों ने निःशुल्क करवाया इलाज

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- 1,68,741 किसान उठा रहे योजना का लाभ

प्रधानमंत्री उज्ज्वला योजना

- 1.37 लाख से अधिक गैस कनेक्शन रहित पात्र परिवारों को निःशुल्क गैस कनेक्शन प्रदान योजना के तहत 21.81 करोड़ रुपये खर्च

आयुष्मान भारत

- 4.28 लाख परिवारों के गोल्डन कार्ड बनाए गए
- अब तक 1.26 लाख रोगियों को मिला 154.16 करोड़ रुपये का निः शुल्क इलाज

जल जीवन मिशन

8.37 लाख घरों में पहुंचा नल से जल

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