



CONCEPT OF MINORITIES IN INDIAN CONSTITUTION

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Abstract

India is a nation of diversity, home to a wide range of people with various cultures, languages, religions, castes, races, tribes, costumes, eating habits, ways of life, standards of living, and other characteristics. Hinduism, with a population of 79.82%, is the religious group with the most proportion in India despite its religious heterogeneity. Other minor faiths practised in India include Sikhism, Parsi, Buddhism, Islam, and Jainism. The numerical disparity in the numbers of adherents to different faiths creates an environment that is conducive to riots and acts of communal violence. Additionally, because of this, minorities are more open to persecution by followers of the dominant faith. India has a disgraceful past marked by violent and many intercommunal conflicts. In many international constitutions, the ideas of majority rule with respect for minority rights are exemplified. Articles of their national constitutions prohibit exploitation of the minorities by the majority group. Through its numerous provisions, the Indian Constitution recognises a) religious minorities, (b) cultural minorities, (c) linguistic minorities, (d) minorities with their own script. Unfortunately, it's likely that this broad categorization of minorities is too simple. It is crucial to remember that comprehending minorities in India entails more than just identifying the non-dominant groups according to their numerical size. This paper reviews the theoretical basis as well as constitutional principles of the Indian Constitution's provisions for religious minorities and religious freedom.

Keywords: Minorities, Constitution, Majority, Equality, Linguistic, Rights, Religion, Secularism.

1 Introduction

1.1 Background

People who adhere to a common language, culture, collection of values, and practices are referred to as belonging to an ethnic group. During the 19th century, a number of the ethnic groups came together and proclaimed themselves sovereign state over the areas they lived in [1]. Other ethnic groups living in the same regions are extremely distinct from one another and didn't want to adopt the language, culture, or traditions of the newly established country. However, some communities were compelled to alter their nationality as a result of moving state boundaries [1,2]. These groups would like to preserve their essence even if they are culturally

different from the bulk of society. They are a group of persons who are scarce and obviously different from the rest [3].

India is a nation that is multi-cultural, multi-ethnic as well as multi-religious. There are many different faiths, civilizations, customs, and heritages throughout India. There are eight major religions, each with a unique history and culture. There are 22 official languages and more than 800 ethnicities spoken from Kashmir to Kanyakumari. Minority groups are acknowledged for their differences in a close-knit representative democracy like India, and while they have minority rights in the congregation, organizing a minority group is a personal decision [4].

A new way of thinking and deliberating in scholarly communities, which focused primarily on the politics and traditions of majority and minority, was stirred up in response to the persistent claims made by the minorities even in the progressive and developed nations. This new approach to thinking and contemplation was based on an in-depth connection in between struggles of the minorities and widespread human rights violations worldwide [5].

In relation to the Indian Constitution, this paper attempts to define the ethnic sects that make up minorities. Further, the paper makes an effort to review some of the constitutional provisions granted by the Constitution of India that aim at protecting and safeguarding the rights and freedom shared by the minority segment of the nation.

2 Indian Constitution and Minorities

Positive action including positive discrimination are required for the welfare and elevation of minorities, according to the Indian Constitution and, more broadly, international agreements on human rights. In India, minority rights guard against discrimination based on a person's ethnicity, culture, language, or religion. Minority members must be allowed to use their own names, study and utilize their native languages, and openly express their identity [6]. Therefore, minority rights offer nondiscrimination, protection from violence based on identity, equality before the law, participation in political and public life, and opportunities for cross-border and intrastate collaboration with other groups and organizations [7].

The founders of the Indian constitution were careful to construct a document for the nation that satisfied the yearning for national unity even though, taking into account the unique ambitions and demands of distinct groups. They were committed to creating a socioeconomic and political environment that was favorable for the peaceful coexistence of the country's varied identities and communities. In order to address the relevance of providing protections and rights to minorities in India, the Constituent Assembly constituted an Advisory Committee on the question of Fundamental Rights, which would include rights of minorities, led by Sardar Patel [5]. The Advisory Committee updated its recommendations to the Constituent Assembly on minorities in a later meeting, including the following:

- (i) No legislation to the effect shall be formed, and minorities in every region of the nation shall have safeguarding with regard to their languages, cultures, and religious traditions.

- (ii) No minority group (religious, linguistic, or ethnic) should face persecution and prejudice in admissions to educational institution supported by public money, nor may they be obligated to participate in a particular religious educational programme.
- (iii) All minorities (related to religion, language, or community identification) are allowed to establish and run educational institutions in any region of the nation.
- (iv) The state shouldn't treat schools and colleges founded and run by minority groups differentially when granting funding.

The Constituent Assembly altered these suggestions, which ultimately became articles 29 and 30 of the Indian Constitution [6][8]. Ultimately, the 'common domain' and 'separate domain' may be used to classify minorities' constitutionally protected rights. All of the people who live in our nation have access to the rights that are considered to be in the "common domain." The rights that solely apply to minorities fall under the category of "separate domain," and they are intended to safeguard the identities of minorities [9].

2.1.1 Who are Counted in Minorities

A minority is defined as "an ethnic, religious, or linguistic group, whose number is smaller than the remainder of the population" under Article 27 of the International Covenant on Civil and Political Rights and related case law. A minority is a group that differs from the majority in terms of its linguistic, ethnic, or cultural makeup [7]. Second, a minority is a group that often attempts to give that identity greater expression in addition to attempting to retain that identity [10].

Although, the rights granted to minorities are explicitly stated in the Indian Constitution, it is not made clear what constitutes a minority or which communities or groups of people belong there under this term. "The Linguistic and Religious Minorities" are referred to. The Indian Constitution has many provisions that explicitly state minorities' rights.

Various religions other than Christianity and Islam were treated equally in India after independence. Hinduism, the predominant religion in the area, while remaining others were considered as a subset of Hinduism like Jainism, Sikhism and Buddhism. On October 23, 1993, the Center notified five groups as "minority communities" in accordance with its authority under Section 2(c) of the NCM Act: Christians, Parsis, Sikhs, Muslims, and Buddhists. In January 2014, Jains were added to the list [1,2] [6-9]. However, linguistic minorities provide a more difficult problem and include several governmental entities, whose authority is unclear [11]. Yet the case was crucial for allowing the determination of minority status by the number in population rather than other considerations like backwardness or underrepresentation, in addition to the test of taking the quantity of the minority community's populace in proportion to the population of the State [12].

In *TMA PAI Foundation v. State of Karnataka*, the Supreme Court of India declared that the notion of minorities must relate to a specific state or union territory. It was said that under Article 30 of the Indian Constitution, "minorities" included linguistic and religious groups. The State will be the unit instead of all of India for the purpose of defining the minority because the States in India were reorganised along linguistic lines [13]. As a result, Article 30's equal treatment of linguistic and religious minorities must be taken into

account from the perspective of the State. According to this, even if Punjabis are minorities at the national level but not in the state of Punjab, they would still be regarded as such in the state of Andhra Pradesh. In Punjab, Hindus, who make up the majority of the population, are a numerical minority [13].

It was significant that this precedent was set at a period when education was a state subject, which was changed when post 42nd Amendment Act of 1976, the Indian Constitution included education to the concurrent list. Certain odd subtleties are apparent from SC jurisprudence if religion and language are the axes used to determine a person's status as a minority [14].

1. Article 25

The Constitution's Article 25 promises the right to freedom of religion and conscience. It states that everyone has an equal right to religious freedom, including the freedom to proclaim, perform, and spread their religion, as long as it doesn't interfere with public morals, health, or safety, or any of the other clauses in this article.

2. Article 30

Article 30(1) envisages that all minorities should have the right to create and run educational institutions of their choosing, regardless of whether they are founded on religion or language.

According to Article 30(2), the State may not exclude any educational institute from receiving assistance on the grounds that it is run by a minority group, regardless of the reason for the exclusion being based on religion or language [6][7].

2.1.2 Educational Institutions for Minorities

The National Commission for Minority Educational Institutions Act, which safeguards minorities' rights to education, is included in article 30(1). The Act exempts minority educational institutions from government influence, with the exception of maintaining education excellence by establishing minimal requirements for students and professors [14]. If the process is open and merit-based, the administration or university cannot control how students are admitted to unassisted institutions. However, the legislation requires assisted institutions to accept a certain amount of non-minority pupils. A minority institution is not limited to educating solely the minority religion, language, or culture; it may also provide universal secular education [15].

2.2 Various Other Articles in the Indian Constitution

In addition to the aforementioned guarantees and provisions found in the Fundamental Rights, the Preamble, as well as the Directive Principles of State Policy, the Constitution of India has a number of additional sections that either explicitly or implicitly discuss the privileges and rights of minorities in India [16]. Here are a few of them:

- Article 347 discusses an unique provision that gives the President the authority to formally recognise a language that is spoken by a significant portion of the people. This might serve as a defense for minority languages.
- The special provisions of Articles 331, 333, 334, 336, and 337 "guarantee the representation of Anglo-Indians in Union and State legislatures through nominations, if necessary, special provision for the

community in certain services, and special provision with respect to educational grants for their benefit."

- According to Article 350(B), "whose job shall be to inquire into all topics relevant to the protections established for linguistic minorities under this Constitution and report to the President concerning such subjects," the President may designate a "Special Officer for linguistic minorities."

3 Discussion

Although, India prides itself on being a secular, democratic country, a number of constitutional clauses and regulations, such as those prohibiting conversion and protecting cows, feed anti-minority prejudices. As lynch mobs are used to divide and terrorise the working class and other underprivileged groups of society for political gain, communalism is intensifying. In India, hate politics have consistently targeted the Muslim and Christian minority [17]. However, the trajectory of all these recent instances reveals that although violence against these groups has existed since the creation of the Indian nation, the political balancing act between India's devotion to communities and its promise to equal citizenship, which was successful in the early years of independence, is now proving to be untenable in the long run [18].

After a right-wing administration was re-elected, the situation regarding religious freedom in India took a sharp turn for the worse, with attacks on religious minorities becoming more frequent. Four Muslim males were recently assassinated by Hindu vigilante groups in various incidences around the nation in October 2015 on the grounds that they may have slaughtered or stolen cows for meat [18]. Due to their reputation among Hindus as being fearsome, militant Right-wing Hindu organizations that took it upon themselves to defend cows and outlaw beef eating committed the acts of violence [19]. Similar violent instances against Christian minority in India have been documented. In 2015, attacks on churches spread concerns of escalating Hindu nationalism under the BJP administration in various Indian states. According to reports, twenty Indian states saw close to 85 similar events. Over 8,000 Christians lost their lives as a result of these horrific attacks [18-20]. In May 2019, the national government-imposed laws at the national level that violated religious freedom, notably for Muslims, using its increased parliamentary majority. The national government supported hate speech and violence against minorities.

If the "new republic" is really taking shape, it poses a danger to the rights of certain religious minority today. The BJP and the Sangh Parivar have a different understanding and stand of the constitution than Modi, which is weakening minority rights including the freedom to practice their religion and adhere to the personal law. Modi shockingly proclaimed the constitution to be his "holybook" in response to assaults on Christian minorities [21]. To provide minorities in multicultural countries their viewpoint and role in democratic politics, the current situation has to be critically assessed [22]. Democracy is important not only for the sake of free speech and other things, but also because its main goal is to constantly foster creative contact between diverse point of views and sensitivities since only via cross-cultural discourse can the truth be discovered.

4 Conclusion

Minorities may find several articles and clauses in the Indian Constitution that protect their rights and benefits. The Indian Constitution is a classic example of how to accommodate and modify the numerous demands of people with diverse cultures and identities. The Indian Constitution has several provisions for minorities to protect their rights. These include the principles outlined in the "preamble", "Fundamental Rights", "Directive Principles of State Policy", as well as several additional articles and clauses stated in the Constitution. Hence, it is obvious that the Constitution of India plays a crucial role and is a key source for securing the advantages and rights of India's minorities.

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