

Minority Safeguards In India

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Abstract

The problem of minorities is a universal phenomenon. In the present day context there is no state in the world has free from some kind of minorities. Although the existence of minorities is universal, the nature of minority problem is not always and everywhere the same. It assumes different forms and intensity in various parts of the world at different times and has taxed the brains of statesman, thinkers and social scientists. A number of national and international treaties and agreements have been concluded for the protection of minorities at different intervals of history. Since the rise of democracy in the 18 century, the problem of minorities has become a serious political question and has played a great role in national and international affairs. The first criterion to solve the problem in a democratic country is the recognition of equal rights and duties for all, irrespective of religion, race, caste or language. So it is only democracy that recognizes different minorities and provides them equal treatment. It is also often stated that the efficiency of democracy lies in giving fair treatment to minorities. On the other hand, minorities have no place in a totalitarian regime, where everything exists for the state. So the minorities cannot keep their separate identities therein. They have submerged themselves in the state itself. So the problem of minorities as such is essentially a problem of democracy.

Key words: *Minority, Fundamental Rights, Linguistic, Constitution*

Introduction

The term 'Minority' is the compound is the compound of the Latin word 'minor' and the suffix 'ity' meaning interlaid the smaller in number of two aggregates that together, constitute a whole.

But the concept of minority in social context is intricate. To define minority is to assign limits. A concept remains vague as long as it is undefined. But to define the concepts of social and political life is harder than to give the derivation of the terms. So a great difficulty has been experienced in defining the term minority at different levels. The earliest edition of Encyclopedia Britannica, contained a detailed article on minorities, appeared in 1953. It defines minorities as 'groups held together by ties of common descent, language or religious faith and feeling themselves in different in these respects from the majority of the inhabitants of a given political entity.

Another point of view is that a minority is a group whose race, language or religion is different from that of the majority. The report of the united nations sub-commission on prevention of discrimination and protection: of minorities furnishes the term minority includes only those non-dominant groups in a population which posses and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population. There is no single definition of the term minority as acceptable to all, and free from criticism. One view does not find favor with the other and the difficulty is greatly enhanced by the fact that those who write about it are not always thinking of the same thing liking.

Problem of Defining Minorities in India

The difficulties experienced elsewhere in arriving at a satisfactory definition of the concept of minority were also experienced while framing the constitution in India. In spite of the fact that the problem of minorities in India figured prominently in the constituent Assembly and the founding fathers bestowed much thought and attention to it in all its facts, yet no attempt was made on any occasion to define the term in precise words. When the draft of the constitution was under discussion in the Assembly on 16 November, 1949 T.T. Krishnamachari moved one amendment "that in part XVI of the constitution for the word minorities wherever it occurs, the words certain classes be substituted." This amendment was adopted unanimously and even without any discussion.

Not only the use of the term in the constitution is very rare, but group is mentioned explicitly as minority therein the term does occur in two articles of the constitution, but not for definitional purposes. In one of the article it is used only in the sub-heading of the article and not in the text of the article. However, apart from the two articles, various other provisions which indirectly provide safeguards to the minorities regarding their socio-economic, political and other interests occur in the constitution at a number of places.

Since the commencement of the constitution, a number of seminars have been held by different centres and institutions to evaluate the different provisions concerning minorities as given in the constitution, yet it is a matter of disappointment

that while relevant provisions were critically examined by the participants, no agreed definition of the term could be arrived. Then the term minority was posed in the Kerala Education Bill. The court commented that minority is a term which of Kerala government is not defined in the constitution and in the absence of any precise definition at must be held that a minority community means a community which is numerically less than 50% percent but the question is not fully answered, for part of the question has yet to be answered, namely 50 percent of the entire population of India or 50 percent of the population of a state forming part of the union. The government of Kerala contended that the minority must numerically be a minority in the particular region in which the educational institution was situated in order to claim the fundamental rights of the minorities.

According to this definition, one possibility is that the population in a state may be so heterogeneous that no single community may constitute more than 50 percent of the state population. Thus all groups may claim the title of minority community. The second difficulty about this definition is that there might be certain communities which are in majority in case of states but in minority in case of the union. Thus such communities shall be having double states of being in majority at one and the same time and minority in different context.

To conclude, the term 'minority' in India is a relative term. It is primarily a political and not merely a numerical concept. This fact finds further confirmation in the debates of the Constituent Assembly of India. The word 'minority' is used not merely to indicate the minority in the technical sense of the word but which are none the less, minorities in the cultural and linguistic sense.

Minorities in India

There are only two specific Articles, Article 29 and 30, in the entire constitution of India, that explicitly stand guarantee to the protection of the interests of minorities in India. Article 29 states: Any section of the citizens residing 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. Article 30 states: the right of the minorities based on religion or language, to establish and administer educational institutions of their choice. Thus reference has been made in these articles to three different kinds of minorities, namely Linguistic, Religious and Cultural.

Difference on the grounds of language or religion is understandable, but it is difficult to define the word culture. A number of definitions stress the idea that culture is a collective name for the material, social, religious and artistic achievements of human groups, including traditions, customs and behavior patterns, all of which are unified by common beliefs and values. Values provide the essential part of a culture and give it its distinctive quality and tone. There is so much culture variety that it is difficult to determine culturally who is in minority and who is in majority. Each community or religious group also had a culture of its own and adhered to a different religion centric manner of life. So the very concept of all India culture is controversial.

But language and religion are two such things as to go a long way in determining the cultural entity of a community. So to be more precise and scientific it is appropriate to comment that Indian constitution recognized only two types of

minorities based on language, and religion and also those based on both in combination.

1. Religious Minorities

Not only in India but throughout the world, religion has through the ages played two distinct roles in society. On the one hand, it had the effect of unifying large sections of people who would otherwise have remained fragmented and fractured in to pretty tribes and principalities. On the other hand, religion has also led to sharp and serve divisions between man and man, group and group, nation and nation. In the Constituent Assembly on the effect of religion on Indian life, remarked the religious conceptions in this country are so vast that they cover every aspect of life, from birth to death.

In India, Hinduism is the religion of the majority and Muslims, Christians, Sikhs, Parsees are the major religious minorities. According to the census of 1971, the percentage of the different important religious groups is Hindus 82.72%, Muslims 11.21%, Christians 2.60% and Sikhs 1.89%. Except Hindus all others are minorities in India.

2. Linguistic Minorities

Language is an indispensable tool for all human existence. It is the means of expressing our intricate and complex thoughts and it is, perhaps the most important mark of group identification. Language is the greatest possession of man. All human civilizations have developed through the development of language. Language is an instrument of development in almost all fields of scientific information and education. Languages can also spread, but here also the experience of history shows that linguistic boundaries are one of the most rigid things in the world.

India has a complex problem of many languages. India is the seventh largest and the Second most populous country in the world. Its geographical position is such that it has served in a meeting ground for the people of diverse racial and cultural stocks and it is hardly to be wondered at that there should be a great multiplicity and variety in the forms of speech in the country. According to the linguistic survey of India, there are 179 languages and 544 dialects, and philologists have classified these into four distinct family groups – Indo-Aryan, Dravidian, Austro-Asiatic and Tibet-Chinese. Although the number of languages and dialects enlisted for census purpose runs into several hundreds, the principal languages to be reckoned in the language problem of India are only about a dozen – the regional languages prevalent in fairly large compact areas of the country.

Another main feature of the contemporary Indian linguistic scene is that here a linguistic group does not generally correspond to a religious group. For example in Bengal, Bengali is the language of the Hindus, the Muslims and Christians alike. These groups have identical linguistic interest in definite areas despite their religious differences. So to say, if religion divides India vertically, language divides it horizontally. Further these divisions very often overlap one another.

The Constitution of India recognizes 18 official regional languages, as given in its 8th Schedule, and Hindi as the National/Official language. In most of the States in India the regional languages are used for the purposes of administration. For

example, Malayalam is used in Kerala, Tamil in Tamil Nadu, Telugu in Andhra Pradesh, Kannada in Karnataka, Marathi in Maharashtra, Gujarati in Gujarat, Oriya in Orissa, Bengali in West Bengal, Assamese in Assam, Punjabi in Punjab, Hindi in Rajasthan, Haryana, Uttar Pradesh, Bihar, Madhya Pradesh and Himachal Pradesh and Urdu in Jammu and Kashmir. Since most languages have been recognized as State Languages, it has created linguistic minorities in each State.

To explain the term 'Linguistic Minorities', 'Linguistic minorities are minorities residing in the territory of India, or any part thereof, having a distinct language or script of their own. The languages of the minority group need not be one of the fourteen languages mentioned in the 8th schedule of the constitution. In other words, a 'Linguistic Minority' at the state level means any group of people whose mother-tongue is different from the principal language of the state, and at the District and Taluk levels, different from the principal language of the district or the Taluk.

From enunciation it appears that the meaning and scope of the term 'Linguistic Minorities' is wide and comprehensive. The problem of Linguistic Minorities is nothing new to this world but in the history of our country it is comparatively new and of recent origin. Before the adoption of the constitution, rather during the British regime, the map of India was not shaped by any rational or scientific planning but by the military, political or administrative exigencies or convenience of the moment. So at the time of framing the Constitution practically every state was multilingual, and it was presumed that any move for the reorganization of the boundaries of the States must be on the basis of linguistic and cultural homogeneity of the people in an area. M. L. Chattopadhyay asserted in the Constituent Assembly: The demand which is being heard from various quarters about realignment of provinces or rather redistribution of provinces on linguistic basis, will be satisfied to a large extent.

On 22nd December 1953, the Prime Minister made a statement in Parliament to the effect that a Commission would be appointed to examine objectively and dispassionately the question of reorganization of the States of the Indian Union. This led to the appointment of the States Reorganization Commission of 29 December 1953. In 1955 the Commission submitted its report in which it recommended the redrawing of state boundaries largely on a linguistic basis in 1956, a number of uni-lingual states were carved out in India. But even this operation could not solve the acuteness of the linguistic problem. And this fact was also acknowledged by the Commission itself. The Scheme of redistribution of State territories which we have recommended will result in many cases in bringing together people speaking a common language. To that extent, it will reduce the number of linguistic minorities. It is, however, quite evident that even if the linguistic principle were applied very rigidly, the problem of linguistic minorities will, by no means, be solved.

It, therefore, made a number of important proposals, including a constitutional amendment, for the protection of the linguistic minorities, such as Constitutional recognition should be given to the right of linguistic minorities to have instruction in their mother tongues at the primary school stage, subject to a sufficient number of students being available.

The founding fathers of Indian Constitution had also envisaged the problem of linguistic minorities and provided certain safeguards, via, Articles 29, 30, 347, and

350. But after the reorganization of the States they were found to be inadequate and, on the recommendations of the States. Reorganization Commission, the Constitution (Seventh Amendment Act) inserted Articles 350A and 350B exclusively to protect the interests of the Linguistic Minorities.

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