



Research Paper

Indian Constitution and the Rights of Minorities: A Critical Analysis

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Abstract: In an ever-changing world, communities and minorities are exposed to new ideologies that challenge well-established modes of life. Minorities can be defined as “Any group or community which is socially, politically and economically non-dominant and inferior in the population” as defined by the United Nations, furthermore, minorities can be categorized based on their differences in ethnicity, race, religion, language, sexual orientations, or disabilities. India has been always a paradise for minorities, however, with the invasion of Muslims, a new dimension was added to the life of Indian minorities as this country witnessed the presence of Muslims who sought to find a place for themselves in a Hindu-dominated country. Muslims, Sikhs, Christians, Buddhists, Jains, and Parsis are the currently recognized minority communities in India. As a result of constitutional provisions guaranteeing religious freedom for all Indian citizens, all religious groups are treated equally under the law, regardless of their faith. For instance, article fourteen endows equality to all Indian citizens, while articles twenty-nine and thirty indicate the rights of minorities. With constitutional provisions, the government of India has launched various programs and policies to help minority communities. One can mention some such programs as, the Prime Minister’s 15-point program for the welfare of minorities, USTAAD, Hamari Darohar, Nai Manzil, Nai Roshni, and many others.

Given this, in this paper, I will discuss the constitutional provisions of minorities and how the legal regime of India attempted to protect them. Furthermore, we will discuss the role played by minorities in enriching Indian culture and also their role in developing the nation’s integrity and prosperity. However, I will argue that despite several provisions and help, the problems in front of minorities to enjoy their promised equality and prosperity have remained unsolved.

Keywords: Constitution, Government Schemes, Ideologies, Minorities, Rights,

Received 02 Mar., 2024; Revised 11 Mar., 2024; Accepted 13 Mar., 2024 © The author(s) 2024.

Published with open access at www.questjournals.org

I. INTRODUCTION:

India is always known for its rich cultural and religious diversity. India's religious traditions have always influenced the country's unique way of life. Free exercise of religion has been codified as a constitutional guarantee in India, helping to foster a climate of mutual respect and understanding among the country's many faiths.¹ From Kashmir to Kanyakumari, across India, more than 800 different languages are spoken. The 2001 Indian Census found that there were a total of 1599 languages spoken in India, in addition to the country's 122 official languages. However, data from other sources vary, partly because "language" and "dialect" are defined differently in different sources. There are 122 languages with over 10,000 speakers, and 30 with over a million native speakers, according to the 2001 Census.²

In a diverse and inclusive democracy like India, minority groups are respected for being unique; however, while members of these groups are guaranteed certain rights within the larger community, the choice to identify with or not with a minority is ultimately up to each individual. The Latin word "Minor" is the root of the word "minority," which is combined with the "ity" suffix to signify "little in number."³ The United Nations defines a minority as any social, political, or economic subset of the overall population. There is no definition of "minority" in the Indian constitution. A total of six religious communities—Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis), and Jains—have been recognized by the Central Government of India as minorities.⁴

1. HISTORICAL BACKGROUND:

The great Persian, Afghan, Turkish, Tughlaq, and Mughal rulers, as well as the British and many others, all, arrived at various points in India's history and, despite their own agendas, enriched the country's cultural heritage. During the reigns of the above-mentioned dynasties, new religious and ethnic minorities emerged, including Muslims, Christians, Parsis, and others. Since India has so many different monarchs, there are also many different religions and cultures, giving rise to India's many minority groups.

The biggest challenge for India's newly independent government after the British left was restoring religious harmony and creating a peaceful nation. So, the Constituent Assembly unanimously approved the objective resolution introduced by Pandit Jawaharlal Nehru in 1946 and adopted a safeguard mechanism for the country's tribal areas, underprivileged backward classes, and minority communities on January 22, 1947. The "Special Statutes Relating to Minorities" is also included under articles 292-301.⁵

Despite initial hopes, the constitution was ratified in November 1949 by the Constituent Assembly of India and came into effect on January 26, 1950, it did not set aside any quotas for religious minorities in either legislative bodies or the public sector. The Constituent Assembly decided that religious minorities should not be subject to group-preference rules because they believed that these safeguards were more effective for helping the economically disadvantaged than for maintaining cultural diversity.

In 1948, the Constitutional Drafting Committee created several laws and clauses known as "Special Provisions"⁶. Minority rights under the Indian constitution include provisions to look out for any kind of discrimination based on a person's culture, language, ethnicity, or religion. Individuals from underrepresented groups must be given the legal right to identify with and communicate through their own given names, acquire and use their inborn languages, and to express their cultural heritage freely. Therefore, it would not be wrong to say that the Indian constitution guarantees any kind of discrimination against minorities, to protect against any act of violence based on religion, caste, etc., it also provides equality before the law, equal participation in public as well as political life. Minority rights are a natural component of human rights. It aids in promoting appreciation for diversity and fostering tolerance. Various proposals had been made by the Constitutional Drafting Committee. They are concerned with fostering an environment where members of different groups can live and create side by side without conflict. a brighter future.

II. MINORITY COMMUNITIES IN INDIA

2.1 Islam:

Islam, the country's second most popular religion, has significantly impacted India's history, way of life, and artistic creations. Following the partition of the subcontinent in 1947, many Muslims (around 10 million) fled to Pakistan while many Hindus and Sikhs left Pakistan for India. The demographic makeup of both countries was drastically altered as a result of this event, and India is still feeling its effects today.⁷ In India, the majority of Muslims were Sunni as opposed to Shias and other sects.

India's Muslim population is predominantly Sunni Muslims; however, there are sizable Shi'ite communities in the state of Gujarat. The majority of Sunnis reside in Jammu and Kashmir, Uttar Pradesh, West Bengal, and Kerala, in addition to large cities.

Despite this, the Islamic population of India continues to contribute significantly to the nation's development. By promoting studies related to theology, and establishing their religious institutions, universities, and amenities, Muslims are undoubtedly contributing to the nation's progress in one way or another.

2.2 Sikhs:

Sikhism is an Indian monotheistic religion that encourages the adoration of an impersonal God. The religion's core principles of service to humanity, humility, and equality among all individuals call its adherents to work to improve the lives of those who are less fortunate or in need. To give just one example, it is common practice among Sikhs to feed anyone who visits a gurdwara (the Sikh's place of worship). Many men and some women in the Sikh community wear a turban, also called a "*dastar*" or "*dumalla*," which is one of the most easily recognizable symbols of the religion. When India and Pakistan were created, the Punjab region became home to the vast majority of India's Sikh population.

2.3 Buddhism:

In contrast to early Hinduism, which based its moral standards on a person's caste, Buddhism emerged as a countermovement. The "Four Noble Truths," which form the basis of Buddhism, assert that by adhering to the "Noble Eightfold Path," individuals can attain nirvana and liberate themselves from the unstoppable cycle of birth and death. Over the past three decades, Buddhism has become more widespread in India. The increasing migration of exiled Tibetan Buddhist monks is partially responsible for its popularity. However, as more members of the lowest castes view it as the best alternative to Hinduism in contemporary Indian society. A

substantial Buddhist population resides in the Indian states of Maharashtra, Sikkim, Arunachal Pradesh, and Jammu and Kashmir.

2.4 Jainism:

Jainism was also founded as a countermovement to some of early Hinduism's theories and tenets. In contemporary India, laity Jains typically uphold the moral precept of "ahimsa" (literally, "non-harm" or "non-violence"). Jains therefore frequently advocate for vegetarianism and respect for animals. The Jain laity community also regularly engages in samayika, a meditation rite designed to hone one's spiritual discipline. Samayika is frequently practiced in a place of worship, such as a temple, in front of a monk, or in one's house. The majority of Jains live in Rajasthan, Gujarat, and Maharashtra.

2.5 Christianity:

Christianity is the third-most-popular religion in India, with a large concentration in Mumbai and the deep south. Roman Catholicism is the predominant form of Christianity in India, but numerous smaller Christian congregations also exist such as the North and South India Churches. Primarily historically marginalised minorities, such as lower castes and tribal communities, have converted to Christianity.

These religious minorities in India have been given their rights under various provisions of the Indian constitution which are discussed as under:

III. RIGHTS OF MINORITIES IN THE INDIAN CONSTITUTION:

Article 14 of the Indian constitution grants every citizen the right to equality. It states that the State shall not deny equality before the law or equal protection of the laws to any person within India's territory. It also prohibits any kind of discrimination based on religion, race, caste, sexual orientation, or place of birth.⁸

The Cultural and Educational Rights section of the Constitution has two articles that were developed by the Constitutional Drafting Committee.

Articles 29 and 30 of the Indian Constitution specifically address the rights of minorities. Article 29 of the Constitution stipulates the protection of the interests of minorities. Its clause(1) stipulates that any group residing within India's jurisdiction has the right to preserve and promote its own language, script, literature, and culture. Whereas, its clause (2) prohibits denying admission to state-aided educational institutions based on race, caste, religion, or language.

Article 30 (clause 1) allows minorities living in India to establish and manage their own educational institution for the preservation of their cultural legacy. Its subsection 30(1A) strengthens minority educational institutions in the event of compulsory acquisition. The state must ensure that the amount required to acquire the property does not limit the right guaranteed by clause (1).

Article 30(C) Clause 2), states that the government must not discriminate against minority-run educational institutions, regardless of religion or language, when providing funding.⁹

3.1 Indian Constitution Miscellaneous articles

Several other provisions of the Indian Constitution ensured the protection and advancement of minority groups in India.

- According to Article 38, the state is responsible for establishing and maintaining a social order that promotes the well-being of its citizens, is permeated by social, economic, and political justice, and strives to reduce economic, social, and political inequalities.
- Article 39 ensures the right to free legal representation and equal justice under the law. In it, the government is obligated to ensure that all citizens have access to adequate food and shelter, as well as a just distribution of wealth. It also ensures that people are paid fairly for their work and that young people have access to resources that will help them flourish.
- Article 46 covered the Gandhian. It stipulates that the state may take the appropriate steps to safeguard the weaker segments of the population from social injustice and exploitation and to encourage the educational and economic advancement of those groups.
- The President is empowered by Article 347 to formally recognize a language that is used by a sizable portion of the people.
- Anglo-Indian representation in the Union and State legislatures is specifically guaranteed under Articles 331, 333, 334, 336, and 337.
- Under Article 350, a Special Officer for Language Minorities may be appointed.
- Article 350(B) allows for the designation of a Special Officer for linguistic minorities.

IV. VARIOUS GOVERNMENT OF INDIA PROGRAMS FOR MINORITY WELFARE.

The Indian government and the Ministry of minorities unanimously launched numerous welfare schemes and programs for minorities residing in India. The Indian government always aimed to help minorities in the fields of education, skill development, infrastructure, jobs in government sectors, special needs, and many other ways. Some such schemes are worth mentioning here.

4.1 Educational Schemes:

MANF (Maulana Azad National Fellowship)

Students from underrepresented communities in India who are enrolled in regular, full-time M.Phil. or Ph.D. programs or equivalent research degree programs at universities, research institutions, or scientific institutions will be eligible for the Fellowship. As a result, they will be qualified to apply for jobs that typically require a doctoral degree, such as teaching positions at universities.¹⁰

Free Coaching and Allied Schemes for Minorities Students

This program focuses on promoting the participation of minority students in public and private employment by empowering them and preparing them for competitive exams. The program offers alerted minority pupils free coaching at specific coaching institutions with financial support.

4.2 Economic Empowerment Schemes:

Ustad (Upgrading the skills and training in Traditional Arts and Crafts for Development).

The program aims to increase the capacity and improve the abilities of traditional craftsmen and artisans. The youth from the minority group will receive instruction in a variety of specialized traditional arts and crafts from these skilled craftsmen and artisans.

Nai Manzil:

The "Nai Manzil" Program is designed to help youth (both men and women) from six notified minority populations who are between the ages of 17 and 35 and do not have a formal school diploma, or who attended community education centers like madrasas.

4.3 Infrastructure Development Schemes:

Pradhan Mantri Jan Vikas karyakram:

The objective of the Pradhan Mantri Jan Vikas Karyakram (PMJVK) is to close the gap between minority groups and the national average in terms of backwardness metrics by improving socioeconomic infrastructure for minority populations, with special focus on the education, health sector, and development of skills.

4.4 Special Needs:

Nai Roshini- A scheme for leadership development of Minority Women

The program's goal is to encourage the minorities women, and not only minorities but the women living near such minority women whether in their same village or in the same locality, by providing them with the knowledge, resources, and skills necessary to communicate effectively with all levels of the government, banks, and other institutions.

Hamari Darohar:

The "Hamari Dharohar" scheme was created to conserve the precious legacy of India's minority communities. The program calls for preserving the rich cultural heritage of minorities within the context of Indian culture as a whole, which includes organizing exhibitions, preserving written works and other materials, etc. The *Hamari Dharohar* Scheme has not yet taken any steps to preserve minority heritage structures.

4.5 Support To Institutions:

Corpus Fund to Maulana Azad Educational Foundation:

MAEF's primary mission is to develop and implement educational plans and programs for disadvantaged groups and educationally underrepresented minorities. In addition, they include facilitating the establishment of residential schools, especially for girls, so that they can receive a modern education, promoting research, and supporting other initiatives for the benefit of underrepresented minorities.

Equity to National Minorities Development and Finance Corporation:

The main objectives of the MAEF are to develop and implement educational plans and programs for educationally underrepresented minorities and disadvantaged groups in general. In addition, they include facilitating the establishment of residential schools, particularly for girls, so that they can receive a modern education, encouraging research, and supporting additional initiatives for the benefit of underrepresented minorities.

4.6 Prime Minister's 15-Point Programme:

The programme aims to do the following things:

- a) improve educational opportunities;
- b) increase minority participation in economic activities and employment through expanded access to credit for small businesses and recruitment to government positions at the state and federal levels.
- c) Raising peoples' standard of living by giving them a fair cut of infrastructure improvement projects.
- d) Preventing and resolving conflicts between different groups of people.¹¹

4.7 Some Other Welfare Initiatives:

Bypassing the Muslim Women (Protection of Rights on Marriage) Bill 2019 on July 30, 2019, Parliament made a major stride toward women's empowerment by ending the practice of Triple Talaq which will promote gender equality among Muslims living in India.

The Citizenship Amendment Act of 2019 was passed on December 12. It says that persecuted Hindus, Sikhs, Buddhists, Jain, Parsis, and Christians from Pakistan, Afghanistan, and Bangladesh, who are at present living in India, will be given their basic human rights more quickly.

V. COMMUNAL RIOTS IN INDIA

India is a secular nation where many different religions coexist. However, there are times when a person's religious belief comes to dominate them, leading to their emergence as the dominant religion. Given that India is the birthplace of many different religions, it is only natural that there will be such religious conflicts there. India has occasionally had similar instances. The following are a few of the significant events.

5.1 Gujarat communal riots (1969)

Between September and October of 1969, violence between Hindus and Muslims erupted in Gujarat. It was the most violent incident between Hindus and Muslims since 1947 when India was partitioned. Among the acts of violence were Dalit attacks on Muslim chawls. Over a week, there was more bloodshed, and a month later, riots resumed. Approximately 660 people—430 Muslims and 230 Hindus—were killed, thousands of people were injured, and more than 48,000 pieces of property were lost.¹²

5.2 Anti-Sikh riots (1984)

India's majority of the Sikh population lives in the state of Punjab. After the formation of India and Pakistan based on religion, Sikhs also demanded their separate nation. In 1970, Sikhs protested against the Indian government for their sovereign nation. At the time of the Indian Emergency, the administration of Indira Gandhi imprisoned a large number of Sikhs for their protests and demands.¹³ During Indira Gandhi's Emergency, which she used to "save democracy," the Indian constitution was suspended and 140,000 people, including 40,000 Sikhs, were detained without cause.¹⁴

Massive anti-Sikh rioting was sparked by the assassination. In 1984 anti-Sikh massacres in Delhi, gangs of Indian National Congress party workers were backed by the Indian government and police force which targeted Sikhs of Delhi" methodically and systematically. "Following this massacre, 10,000–17,000 Sikhs were killed, their property was severely damaged, and at least 50,000 Sikhs were forced to flee their homes.¹⁵

5.3 The Exodus of Kashmiri Hindus

300 Kashmiri Pandits were killed in the Kashmir region between September 1989 and 1990 as a result of various occurrences. The periodicals Aftab and Al Safa commanded the eviction of all Hindus who chose to live in Kashmir and encouraged the Kashmiri Muslims to conduct jihad against Hindus at the beginning of 1990. The Hindus who refused to leave were killed in the streets the following days by masked men carrying AK-47s. Notices warning all Hindus to leave within 24 hours or perish were posted on their homes.

According to estimates, between 300,000 and 500,000 pandits have left Kashmir since March 1990 because of oppression by Islamic fundamentalists, the worst instance of ethnic cleansing as seen by Indians since independence.

5.4 Anti-Hindu violence

Muslim extremists and Christian missionaries have attacked Hindu temples and Hindus on several occasions. Notable examples include the Chamba massacre of 1998, the Raghunath temple fidayeen attacks of 2002, the Akshardham Temple attack by the Islamic terrorist organization Lashkar-e-Taiba again in 2002, and the 2006 Varanasi bombings (also by Lashkar-e-Taiba). All of these events resulted in numerous fatalities and injuries. The Godhra train burning and the Marad massacre are two recent Muslim mob assaults against Hindus.

5.5 Violence against Muslims

There have been numerous instances of inter-communal violence in the modern history of India. During the 1947 partition, Muslims and Hindus, Muslims and Sikhs, and Muslims and Jains engaged in widespread religious conflict. Even after the partition, it is still possible to observe numerous religious riots in India. All religious groups, including Hindus, Muslims, Sikhs, Christians, Buddhists, etc., have been affected by these riots.

On December 6, 1992, the years-old Babri Masjid in Ayodhya was destroyed by members of the Vishva Hindu Parishad and the Bajrang Dal. Hindus claimed that this Babri Masjid was built on the remnants of their deity Lord Rama. However, the Archaeological Survey of India gives eminent proof in the favour of Hindus, which was verified by the Allahabad Court in 2010. But no one in India can forget the tragic incident of Babri Masjid which took the lives of so many innocent Hindus and Muslims. Although, after that, the government of India, has restricted access to such disputed locations, and also made efforts to resolve such sensitive issues through legal and diplomatic ways.

5.6 Anti-Christian violence

Human Rights Watch in 1999 found that Hindu organizations are increasingly targeting Christians in India with religious violence. The burning of Christian cemeteries, the compulsory reconversion of Christians who had previously converted to Hinduism, and the dissemination of ominous literature were all examples of religious violence against Christians in 2000. Hudson Institute research from 2008 states that "Until now, there have been several hundred attacks on Christians per year by fundamentalist Hindus. But until a foreign national was attacked, this was not covered by the American media."

VI. CONCLUSION:

India is a nation of diversity and unity. All Indian people are granted equal rights under the country's Constitution, regardless of their linguistic, ethnic, cultural, and religious backgrounds. Indian constitution guarantees its citizens prevention from any kind of discrimination against residents based on their birthplace, ethnicity, caste, religion, or gender is prohibited." It also provides its citizens' right to "equality of opportunity" in the workplace and the outlawing of discrimination based on one's place of birth, ethnicity, caste, or religion. Also, under the constitutional provisions, "the Subject to public order, morality, and other Fundamental Rights, people have the right to profess, practice, and promote religion freely." Citizens also possess the "right to construct and manage educational institutions of one's choosing for all religious and linguistic minorities", and also freedom from discrimination in getting funding from the State for institutions of higher education run by minorities has been provided by the Indian constitutions.

India is a country that welcomes all people, and its constitution guarantees everyone who lives there the same rights in all spheres of life. Sometimes there were riots in the communities, but those were for political reasons. No one faith or sect owns this territory. Even though they may be few, minorities nonetheless have a significant impact on India. Only the minority religions in India are responsible for its rich cultural history. A nation can never have diversity from one religion. We cannot ignore the fact that minorities have played a significant role in India's history and current situation for one cause or another.

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