

POLICIES AND
PRACTICES

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March 2010



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Published by:
Mahanirban Calcutta Research Group
GC-45, Sector - III, First Floor
Salt Lake City
Kolkata - 700 106
India
Web: <http://www.mcrg.ac.in>

Printed by:
Timir Printing Works Pvt. Ltd.
43, Beniapukur Lane
Kolkata - 700 014

The research leading to these results have received funding from the European Community's Seventh Framework Programme (FP7/2007-2013) under grant agreement no. 216072

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Commenting on the Sachar Committee report an editorial in the Economic and Political Weekly observed that for more than 50 years, we followed policies shaped in the era of post-independence innocence and hope, policies that embody our commitment to a state blind to differences of caste, and community. But the events of the last decade and a half have shown that these policies have served to mask the largely uninterrupted continuation of traditional inequalities and exclusion in modern garb. Somehow, refusing to count caste and creed could not prevent our civil services, police, educational institutions and private industry- in short, almost every position of privilege- from being disproportionately dominated by the upper castes and the majority community (Editorial, 2006: 535). Needless to say that these developments have serious implications both for the rights of minorities and for certain basic features of the constitution and a plural and democratic polity. Of course Indian state seems to have been extremely sensitive to the need to protect the distinct cultural, linguistic and religious practices of various communities and has for this purpose enacted a number of provisions that protect the private sphere of communities from violation. However, it has not been so sensitive in making the public sphere reflect the diversity and cultural plurality of the country. As Amir Ali points out, the Indian state and polity have thus been wary of encroaching upon the private spheres of community and religious practices, the boundaries of which have been jealously guarded by community leaders and representatives.

Despite the constitutional provisions of non-discrimination and equality in matters of state policies and programmes, not only a gap persists between the legal precepts and actual practices but also in many ways minorities have been disempowered by state policies, of course without the violation of their individual civil and political rights. These includes settlement policies, official language policies, lack of proper notion of distributive justice, a mechanical way of dealing with ethno-regional and religion-cultural identities. Such policies, as Will Kymlicka observes, have been a common element in the “nation-building” programmes which Western States have engaged in. While they are less coercive than the policies in nineteenth-century France, and do not involve violating basic individual rights, they are no less nation destroying in their intentions or results (Kymlicka, 2001: 231). Somehow, India also followed almost the same path of state and nation building. On attaining independence the great diversity of India was almost ignored. Nehru and his colleagues pinned their hopes on the possibility, in their view inevitability, that with the development of communication and industrialization India would increasingly become a polyglot. The zeal with which unitarist nationalism tried to brush political differences, social contradictions and identity assertion under the carpet proved counter-productive. The more it sought to create uniformity, the more it actually sharpened the claims made by linguistic, cultural and religious minorities or even caste and tribal communities. That in turn led to further majoritarian assertions (Jodhka 2001:20). A long suppressed sense of

deprivation, frustration and alienation felt by minority groups in society is causing religious renaissance with a strong socio-political component which is questioning the modernist and secularist ideologies as these have been practiced so far. Therefore there is a need to relook the process of nation- building that has been practiced so far and mend the same not only for accommodating minority aspirations but for the harmonious, just accelerated socio-economic development of the country as a whole.

II

In terms of diversity India can be described as one of the most complex societies. In fact it is the most diverse, most complex, most persistent and most authentic plural society in the world. India's plural character is apparent in practically every major aspect of its collective life, be its social systems, economic formations, cultural patterns; or language dialect groupings, religious communities, castes, sub-castes and sects; or local variations of commonly prevalent mythologies and commonly revered deities; or ethnic identities, regional alignments and sub regional attachments; or diversities of history marked by moments of triumphs and tragedies and differences in heroes and villains, and in the rich tapestry of folk lore, folk dance, music, cuisine, crafts and artifacts of life. (Khan, 1992: 9)

Of course within this vastness of diversity and medley of religious caste and linguistic groups the sense of belonging to a minority, as Myron Wiener puts it, depends upon where one lives, how much power and status one has, and one's sense of community threat. It is not only religious groups who regard themselves as minorities. Caste, tribal, linguistic as well as religious groups can be self-defined minorities for any one or for a number of reasons: they have a distinct group of identity that they fear is eroding; they either regard themselves as socially and economically subordinate to others; or they believe that they suffer from discrimination, either from others in the society or from the state itself. (Weiner 1985:128). It is also important to note that in India social and cultural inequalities defined in terms of caste, tribal or religious identity-overlap strongly with economic and material inequalities. Members of the scheduled castes, for instances, are not only targets of caste prejudice, untouchability and violence by higher castes, they are also victims of exploitation and oppression that takes very real, material forms. They constitute the poorest sections of Indian society, with per capita incomes well below the national average. Indeed the scheduled castes and scheduled tribes are the worst off in terms of most social indicators e.g. literacy rate, gender disparities, infant mortality, and so forth. Likewise a comparison of Hindus and Muslims in respect to social indicators shows a larger proportion of Muslims than of Hindus to be subsisting below the poverty line. Muslims also register lower literacy rates, lower work participation rates, lower rates of access to electricity and piped water and so on. Indeed with the exception of the scheduled castes and scheduled tribes, they are poorest of all inscriptively- defined population groups. Of course, it must be added that the same is not true of other religious minorities; Christians, for instance, register a literacy rate of 81% considerably higher than the national average, while Sikhs are on the whole much more prosperous than other minorities. (Jayal, 2006: 85-80)

In view of the above mentioned diversity and identity perceptions which in many cases also coincide with geographical territories there have been differences of opinion with regard to whether India is a nascent nation or nation in the making. What emerges out of these debates in general can be summarized as: first, there is no doubt that there has been a consciousness of India

as country through the centuries. As Irfan Habib points out, partly this is due to geography, that is the Himalayas and the Western and Eastern ranges separating it from the rest of the world. Partly the Brahmanical culture, with Sanskrit as the lingua franca, has given it a unity in the eyes of the upper strata of society. Second, while India is a country certainly, it is not a nation because it meets the requirements of neither a common language nor a culture. It is a country which contains a number of emerging nationalities with different languages and cultures of their own. (Habib, 1987: 30)

During the British colonial rule, particularly, there were both fission and fusion. The British created a national market and unified the various nationalities by building a centralized state structure. The historical civilization administrative unity under colonialism also generated sentiments of an all Indian nationalism among the masses, especially in the wake of the national movement. It is no exaggeration to support that the “India consciousness, as we understand it today civilized for the first time during the national liberation movement.” In this context, T.K.Oommen suggests that “national” is a political and not a cultural reference in India. And yet, the Indian freedom movement was totalistic in its orientation. (Oommen; 1990:39) Above all, it was the common enemy in the form of colonialism and the struggle against it which provided new unifying bonds to the Indian people. The very existence of foreign rule that oppressed all the Indian people irrespective of their social class, caste, religion and language acts as a unifying factor.

However, in the absence of a full-fledged development of different regions and their economies, cultures and languages, nationalities (along regional, economical, cultural and linguistic lines) also started emerging, particularly during and after the second half of the nineteenth century. A sense of distinct identity and an urge for a separate compact territorial unit had begun to take root and grow among several linguistic groups. The factors that contributed to this trend included: adoption, under British rule, of local languages as a medium of instruction in schools so that people instructed in common medium began to see themselves as a single entity distinct from people using a different medium, the availability of newspapers, literature and other reading materials and use of regional Indian languages: concepts and modes of thought imported from Western Europe where the nation-state had become the predominant form of state organization.

As far as Indian nationalism is concerned since the 19th century, one can discern two distinctive and contrasting strands. One may be characterized as ethno nationalism or Hindu nationalism, which is premised on a conflation of nationalism and ethnicity, particularly religious revivalism. The other is based on shared political discourse, as reflected in equality, citizenship and fundamental rights. The nation however, was increasingly being imagined in Hindu terms. The language of political discourse, the symbols and tropes through which the collective was represented, and the sites of political mobilization, all invoked the culture of the majority population. From Aurbindo to Tilak, Bankim Chandra Chattopdhaya to Swami Vivekanada the most influential social and political leaders were concerned with the fate and health of Hinduism. They alluded to Hindu Rashtra and sought to energize the subjugated people by making the grandeur of the ancient Hindu civilization. (Mahajan, 2006: 169)

The Indian National Congress, however, maintained that it was its primary duty as well as its fundamental policy to protect the religious, linguistic, cultural and other rights of minorities in India so as to assure for, in any scheme of the government to which the Congress would be a party, the widest scope for their development and their participation in the fullest measure in the

political, economic and cultural life of nation. In the resolution on fundamental rights at the Karachi Congress in 1930, looking forward to a free India, Nehru incorporated clauses providing that every citizen should enjoy freedom of conscience and the right to freely to profess and practice any religion, subject to public order and morality, that all citizens were equal before the law, irrespective of religion, creed, caste or sect that no disability would be attached to citizens on basis of these reasons in regard to public employment and in the exercise of any trade or calling, and that the state should observe neutrality in regard to all religions. (Gopal 1988: 2465) His understanding of communal question in India, however, was basically Marxist. For him, therefore, poverty, backwardness, caste, religion and region were all viewed as different faces of the same retrograde phenomenon, which could be transcended only by the alliance of science, reason and economic development. (Jayal 2006:3)

Nehru himself suggested that the problems of the minorities were not suited to his temperament and cast of mind. "I just confess to you", he wrote to Jinnah after some rounds of talk with him soon after the outbreak of war, "that in this matter I have lost confidence in myself, though I am not usually given that way. But the last two or three years have had a powerful effect on me. My own mind moves in a different plane and most of my interests lie in other directions. And so, though I have given much thought to the problem and understand most of its implications I feel as if I was an outsider and alien in spirit". (Gopal 1988: 2465)

In the above mentioned background once the independence was attained, the Indian National Congress which has spearheaded this movement and was now dominating the Constituent Assembly with regard to minorities took an ambivalent attitude. It seems that there was a failure of nerve on the part of the leadership in 1946-47. With the exception of Gandhi, they were unable to rely on their own capacity to compose the outburst of communal rioting accompanying partition; the attempts of the larger princely states to remain independent; the early hostilities over Kashmir, and the administrative problems associated with the initial period of independence. For them, "the circumstances following the partition of India made stability more important than autonomy: efficiency more important than initiative and expediency more important than federalism or any ism." (Kumar, 1983: 265). It has been argued well by many scholars that while Gandhi put his faith in the reformed, ethnically refined individual, in creating a better, if not ideal, society. Nehru and his associates considered the shaping of suitable institutions as the best means to achieve the same goal. And of the modern institutions it was the centralized nation-state which they believed would be the principal engine of social change. Thus, the leaders of the independence movement and the largely middle class intellectuals who supported and gave strength to these leaders were all imbued with resurgent nationalism. The prospects for linguistic and other minorities within the ethno-lingual states looked worrisome to them.

III

In the Constituent Assembly discourse on minorities was not based only on the nature of Indian society, expectations of various ethnic groups, and commitments made by the Congress, but also by the historical experience of partition. As such free India according to Mushiral Hassan, was confronted with a troubled legacy, as also with the task of devising a strategy to deal with religious minorities, especially the Muslims who stayed put in the country of their birth. Should the Constitution, being hammered out in the Constituent Assembly, reflect the broadly secular

language of Indian nationalism, or move towards the goal of a Hindu Rashtra (nation) especially when Pakistan was refurbishing its Islamic image! Why, it was asked should Hindus (numbering 300 millions out of a population of 310 million in 1951) deny themselves a pre-eminent position merely for the sake of placating Muslims? Why should minority rights be generated in Bharatvarsha and not across the border where Non-Muslims were treated as second-class citizens? There was, finally, the highly precisian theory that the Muslims having led, conducted and supported the clamour for Pakistan, must be made to pay a price for their betrayal (Hassan, 2006:1991).

In the prevailing atmosphere, the Constituent Assembly in general did not view minorities issues from the perspective of human rights, but defined them within the parameters of the discourse of communalism versus secularism and nationalism versus separation. In fact, as Shefali Jha brings out in the Constituent Assembly there were not only differences of opinion but also totally opposed positions. When the right to religious freedom was first discussed in the Fundamental Rights sub committee of the Constituent Assembly in April 1947 members disagreed sharply over whether religious freedom was to be defined as freedom to worship or as a freedom to the 'practice' of religion.

One view was statist. According to this view Indians were constituting themselves into a nation by becoming members of the same state. The new Indian citizen was to be identified as just that – a citizen of India, with all markers of an extra-political identity, like sex, religion, language and culture being attenuated by conscious state policy. In this the extra-political aspects of one's person could be highlighted by giving cultural and educational rights to minorities or by consciously placing religion on the public domain by defining religious freedom widely as a right to the practice of religion. (Jha, 2003: 1579) Opposed to this statist approach were members who were insisting on the broader right to religious practice, on the inclusion of the list of fundamental rights of the right to be governed by the personnel laws of one's religion, and on all kinds of cultural, educational and political safeguards for religious minorities. The third position was of those who while advancing a broad right to the "practice" of religion, as well as educational and cultural rights for religious and linguistic minorities, rejected outright any reservations for these minorities in any legislative bodies of the new state on the grounds that such a step would dangerously strengthen extra-political identities (Jha, 2003:1579).

Rochna Bajpai on the basis of her study of Constituent Assembly debates points out that for the nation-building project in the complex, multi layered society, the dominant opinion usually conceived the nation in terms of biological metaphors referring to it, for instance as an organic whole, a 'body politic' a natural entity whereas minorities were artificially created. Minorities were referred to as 'disfigurements' 'cancerous', 'poisonous' for the body politic. Minority safeguards in such utterances were referred to variously as 'privileges', 'concessions' and 'crutches'. (Bajpai, 2000:1839). Bajpai further points out that the dominant opinion in the house also regarded minority safeguards as undesirable since they compromised the nationalist ideal of secularism. In terms of the state's stance towards religion most arguments in the Constituent Assembly emphasized that secularism did not imply state antagonism to religion. A secular state was not a state that denied the importance of religious faith or sought to inculcate scepticism about religious belief among its citizens. Rather secularism was most commonly constructed for implying that the state would not identify with or give preference to any particular religion. Secularism in this sense was regarded as being required to give effect to the idea of equal citizenship in a situation in which citizen's preferred a variety of faiths. State's neutrality in

matters of religion was explicitly proposed as a means of giving effect to the stipulations of equality. (Bajpai, 2000:1839).

The objection based on considerations of national unity was unusually accompanied by a particular understanding of the history of minority safeguards. Such safeguards were regarded as instruments of the colonial 'divide and rule' policy, deliberately fashioned by the duplicitous colonial rulers to misguide the minorities, to create strifes between different sections of the nation, to deny Indian nationhood and to delay the transfer of power once it became inevitable. These strategies were seen to have facilitated the legitimization and the perpetuation of colonial rule and to have culminated in the dismemberment of the country. (Bajpai, 2000: 1839)

By not accepting the demands for separate electorates and reservation of seats on religious consideration, the Constituent Assembly, thus, sought to do away with any protective principle which, it was thought, could further damage the cause of national unity. Of course concerns of minorities with regard to safeguarding of their identity and culture were not ignored. The Constitution attempted to balance the demands of universalist citizenship with the special needs for communities. It took the form first of a recognition that, along with equal civil and political rights for all citizens, it is important to secure and guarantee the rights of religious, linguistic and cultural minorities. The debate on minority rights in the Assembly centered around two issues. One regarding the right of religions and linguistic minorities to their culture and thereby to establishing and managing their own educational and cultural institutions. These rights were granted to minorities, though the only right given to them exclusively was the right to establish educational institutions. The rest of the rights were granted to all cultural groups. These may be considered as rights given to preserve the identity of groups. Moreover, many of them are in the nature of rights against discrimination in public employment on grounds of race, religion or caste. Article 25 of the Indian Constitution gives to all individuals the right to practice and profess religion subject to public order and morality. Article 29(1) gives to all citizens right to conserve their distinct language, script or culture. Article 350 A directs the state to provide facilities for primary education in their mother tongue to children belonging to linguistic minorities. Article 29(2) prohibits discrimination in admission to state educational institutions on grounds of religion, race, caste, language or any of them. Article 30(1) is the right to religious and linguistic minorities to establish and administer educational institutions. Article 30(2) prohibits discrimination in the grant of aid to minority educational institutions. Provisions were also made for separate personal laws for members of minority communities, alongside a universally applicable criminal law. The promise of equality, secondly, was given greater content through constitutional provisions for affirmative action for the scheduled castes and tribes, both in public employment as well as in the central and state legislative. Finally at the macro institutional level, a federal structure based on linguistic boundaries, was legislated. (Jayal, 2006:4).

With regard to adoption of Federalism also the approach was primarily influenced by events of partition and dominant leaderships, preference for the centralized nation state which they believed would be the principal engine of social change. The prospects for linguistic and other minorities within the ethno-lingual states looked worrisome to them. They were thus induced to move towards a Constitution with strong unitary features because (a) they felt that once the Muslim majority areas has opted out of the Indian republic, the major reason for having a loose federal structure had vanished; and (b) they feared that fissiparous tendencies might be fostered by outsiders or generated within some of the constituent units which had to be

safeguarded against. This attitude is expressed in a letter written by Jawahar Lal Nehru on 5 July 1947 to the President of the Constituent Assembly.

“Now that the partition is settled fact, we are unanimous of the view that it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere.”

Similarly in power in a free India, the Congress was notably less happy about the prospect of reconstructing the country on a linguistic basis than when it sought mass support for the overthrow of the British. It tried every technique of diversion available to avert the redrawing of state's boundaries on linguistic lines. Under pressure from those advocating the creation of linguistic states Andhra, Karnataka, Kerala and Maharashtra, the Committee of Constituent assembly responsible for drafting of the Constitution appointed a special committee to look into the question of the linguistic provinces (Known as Dhar Commission). The Committee in its report submitted in 1948 argued against the formation of linguistic states. The Jaipur meeting of the Congress (December 1948) appointed a committee consisting of Jawahar Lal Nehru, Vallabhai Patel and Pittabhi Sittaramaya (known as JVP committee) to look into the report of the Dhar Commission and put forward final recommendations. This committee also rejected the principle of linguistic states with reference to the fact that the consolidation of language communities after the recent partition of the country would give rise to new separatist trends in internal policy. The basis for federalism in India thus was the product of the conflicting cultures, one representing the national leaders' normative concerns for India's unique personality as shaped by the course of history and geography, and rooted in the infinite variety of local situations and the other reflecting their new concerns for unity, security and administrative efficiency. While the former led to the establishment of a basic framework of federalism, the latter resulted in the setting up of several centralized and authoritarian institutional arrangements in the tradition of the earlier colonial rule. (Ray; 1988:1131). Thus the Constituent Assembly though convinced that in a vast country characterized by cultural and religious diversity a federal governmental structure alone could work, felt that a fortified central authority was imperative to maintain the unity and integrity of the nation. Phrases like “ the Indian Union’ was meant to help promote such a view of Indian Nationalism was that a strong central government was necessary to ensure India's survival as a national entity. This view has been, and continues to be dominant in the minds of many persons who shape India's domestic and foreign policy.

Linked with the question of minority rights and federalism the other serious issue of concern, particularly for linguistic minorities was about the official national language of independent India. During the period of British colonial rule, the nationalist demand for freedom was associated with a demand for the replacement of colonial language of administration by a national language as a unifying symbol or nationalism. This demand as Jyotindra Das Gupta points out, was made at the more visible level of nationalist politics, and it appeared to represent the aspirations of an inter-ethnic national coalition. However, there were other levels of language demands where the relation between ethnicity was more direct and visible. One of those levels can be identified as the demand for the recognition of the regional languages as the media of education, administrative transaction and judicial proceedings at the relatively lower levels of the operation of law courts. The demand for elevating the status of regional languages to a level of functional importance and prestige ran parallel to sustained efforts made by regional leaders to standardize the regional languages. The duality of these two processes of mobilization and

integration sometimes led to convergence but relatively this often created a tension and conflict between them. For example, the emergence of Tamil Nationalism in the south around the turn of this century can be seen as a story of success in cementing various lower caste groups into a United Dravidian Movement including diverse religious and other groups within it, but at the same time one may detect in the same process a challenge to Indian nationalism. (Das Gupta 1988; 473). Indian nationalist movement however, long before independence, had settled that Hindi should replace English.

When the British threat disappeared and the Constituent Assembly began to deliberate, many non-Hindi speaking groups perceived that in case Hindi replaced English, the Hindi speakers would enjoy a natural advantage in dominating the economic institutions and political authorities of the nation. After an intensive debate in the Constituent Assembly, a compromise formula was arrived and the present Part XVII of the Constitution was adopted. Chapter 1 of this part deals with “Language of the Union”. In Article 343 it is declared that the official language of the Union shall be Hindi in Devnagari script. The term “Official Language” was deliberately used to specifically distinguish it from the more popular term “National Language” implying that in a multi-lingual country like India no language existed which could be regarded as a “National Language” used by all sections of people all over India. In addition Articles 120 and 210 stated about the language to be used in Union Parliament and State legislatures respectively. Articles 29,30,350,351 gave some protection to minority languages. But in general language provisions were not dictated by the multi-lingual reality of India.

Article 343 of the Constitution also, inter alia provided for the continued use of English for all official purposes of the Union for a period of fifteen years from the commencement of the Constitution. Clause (3) of this Article further empowered Parliament to provide for the use of this for a period of fifteen years. The Constitution gave the States freedom to adopt any language as their official language. The Constitution did not restrict the choice of the official languages for the states to the Schedule VIII which now contains 18 languages. Article 345 explicitly provided that “subject to the provisions of articles 346 and 347, the legislature of a state by law adopt any one or more of the languages in use in the states or Hindi as languages to be used for all or any of the official purposes of that state’.

The states Re-organization Commission, while recommending the organization of states on linguistic lines also recommended that the Government of India should in consultation with state governments lay down a clear policy in regard to instructions in mother language at the secondary stage. This recommendation was approved by the Parliament. Certain amendments were made in the Constitution which provides adequate facilities for instruction to children belonging to linguistic minorities in the mother tongue at the primary level of education. Article 350B provided for the appointment of a special officer by the President for linguistic minorities.

On the other hand, the Official Language Commission appointed by the President of India in 1955 under a constitutional provision reported strongly in favour of replacing English by Hindi. Indeed with this recommendation the long-smoldering discontent and fears of non-Hindi speakers burst forth. Vociferous southern critics bitterly opposed this recommendation. The threat at the Congress Annual Session of 1958 of a split within the party led finally to a compromise by which to satisfy the Hindi zealots, the formal change over to Hindi would still occur in 1965, but the non-Hindi sections were to be placated by the promise that English might be used as an “Official Language” after 1965. The issue, however, remained very much alive. The counter persuasions of the Hindi advocates, time after time, induced the Union Government to postpone

the legal enactment of the promised compromise, and this procrastination in turn provoked growing discontent and even active resistance. When in April 1963 the Official Languages Bill was finally introduced, Lok Sabha witnessed some of the rowdiest scenes in its history. The bill allowing for the continued use of English for official purposes without a time limit, but also providing for a committee of Parliament to review in 1975 the progress of Hindi's acceptance as the official language, came under fire both from Hindi's zealots opposed to any continued use of English, and from southerners, who were disappointed on the status and safeguard for English to be incorporated in the bill. The then Prime Minister of India, JawaharLal Nehru, tried to allay the fears by assuring the non-Hindi speakers that Hindi would not be imposed on them without their consent.

The Government of India seems to have settled upon what amounts to an indefinite policy of bilingualism with English and Hindi being alternative official languages at the Centre and the states. The ideal of transforming Hindi into the sole official language of the country continues to exist in the Official Language Act 1963. In practical terms, it means that Government of India has no language policy. The three-language formula is merely a face-saver for a non-policy and is a dead letter for all practical purposes. As Achin Vaniak points out, Hindi will no longer be imposed anywhere. But left to itself, its use will almost certainly grow. Regional languages will also grow. (Vaniak 1990; 124). But an apprehension keeps on growing amongst minorities that the language of one section of the population is being imposed on others who have different mother tongues. There are several reasons for that.

The Hindi area ranks first among all the other languages areas of India both in size of its territory and population. It embraces many states while other linguistic areas are limited normally by the borders of one state, e.g. Tamils- Tamilnadu , Malayalam- Kerala, Gujarati etc, situated inside the Hindi belt is the capital and one of the largest cities of India- Delhi. Moreover, the development of economic ties accelerates urban growth in the region where new economic, political and cultural centers spring up. After independence north western and central India have surprised southern India in this respect. Urbanization is also conducive to the replacement of dialects by a generally accepted language closest to the literacy language .The introduction of universal suffrage with principle of proportional (to population) representation in both houses of parliament has consolidated the position of Hindi belt states in politics.

The framers of the Indian Constitution, while engaged in the task of balancing Nation-state building and maintaining the pluralist character of Indian society, thus, on the one hand visualized the nation-state as a community of communities. The members of the decolonized polity were perceived not just as individuals or citizens, but as groups and communities. As Gupreet Mahajan points out, the Indian Constitution took note of these and registered their concerns and attempts to delineate a framework in which ethnically diverse communities as well as vulnerable and previously segregated groups would exist as equals. (Mahajan, 2006; 167). On the other hand to deal with majority minority issues the Constitution makers relied mainly on two means (1) fundamental rights; and (2) abolition of separate communal electorate as well as communal reservation. Though they accepted certain corporate rights such as cultural and religious rights, yet their main concern was the rights of individual citizens. In addition the new state also embodied two key principles: a commitment to secularism and democracy. Whereas the former was viewed as symbolic of India's modernism and indicative of its determination to reject religiously based separatism, the latter introduced corrosive political participation which, it was hoped with time would undermine solidified ethnic opposition. This becomes clear from the fact

that while issues related to minorities figured prominently in the Constituent Assembly in all its facts, no attempt was made on any occasion even to define the term in precise words. The term 'minority' is mentioned in only two Articles of Constitution namely Article 29 and Article 30. Here too the use of the term is not for definitional purposes. So much so in one of the Articles it is used only in the subheading of the Article and not in the text of the Article. More so Article 366 which is exclusively used to give the meaning of words and terms used in the text of the Constitution, gives meaning to 30 such expressions. But here too the term "Minority is not covered. All these suggest that the Constitution makers wanted to keep the door open for the assimilation of the minority in the so-called and undefined national mainstream. No less a man than B.R. Ambedkar made the intention of the Constitution makers clear on the floor of the Assembly. While moving the Draft Constitution for the consideration of the House, he said:

"In this country both the minorities and the majority have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of minorities to start with. It must also be such that it will enable minorities to merge some day into one."

Thus, India's new rulers viewed creation of a national society, the necessary concomitant of a modern state, as the task of devising an overarching political arrangements for a people divided along the lines of religion, language and other ethnic attributes which had become sharper during the colonial regime. As D.L. Sheth observes that in rejecting the ethnic principle of nationhood the Indian state sought to base its legitimacy on political ideas, all new to the Indian society, of secularism, egalitarianism, and political equality. This was to be achieved by extending equal citizenship rights to all through universal franchise. The Constitution ensured that the state shall not discriminate among citizens on the grounds of religious affiliation, ethnicity, race caste, creed or gender. Having emerged fresh from the experience of the Independence movement, it sought to develop a new ethics for the national life of its people. National integration and democratic participation became the watchwords for policies in the first two decades after independence, economic growth and development occupying a relatively lower priority. (Sheth, 1989: 624)

This system based on the attempt for an inclusive agglomeration of myriad identities and groups through intergovernmental and inter-factional adjustments and changes, Rajni Kothari points out, proved inadequate when it encountered the large currents of the era of mass politics and large scale politicization of the masses following a steady working of the system and its diffusion of democratic norms. (Kothari, 1988: 2224) The zeal with which unitarist nationalism tried to brush political differences, social contradictions and identity assertions under the carpet proved counter-productive. The more it sought to create uniformity, the more it actually sharpened the claims made by linguistic, cultural and religious minorities, or even caste and tribal communities. That in turn led to further majoritarian assertions. (Jodhka 2001:20) As a result from the mid-1980s, an aggressive form of Hindu communalism has been at work in Indian politics seeking to hijack the Indian polity to a direction opposed to what was established at independence.

IV

It is now quite clear that India began its democratic experiment with greater politicized diversity than any other democracy in the world. As discussed above the primary project of the new rulers was the creation of a society where citizens shared a strong sense of national identity despite cultural diversity, the protection of historically disadvantaged ethnic groups; and the management of diversity within the Constitution through the conception of universal citizenship, perceived as a critical dimension of the project of nation building. At the same time it consciously sought to accommodate the claims of minorities and disadvantaged groups on the ground of protection or compensation for the disadvantaged, rather than on the ground of their representation in the political system. The normative weight, as between the universalist and particularist dimension of citizenship as Neerja Jayal points out, belongs to the former, with the latter merely facilitating the realization of the background conditions of equality and so advancing the eventual accomplishment of the universal ideal. (Jayal, 2006:3) The Nehruvian project of nation-building thus chose to construct an all India identity by promoting secular nationalism while negotiating with the complex, multilayered and democratic fabric of India (Harshe, 2008:248). Somehow Nehru and others believed that all relations active in Indian society could be erased out and entirely new ones could be written down through industrialization and mass education of the type that would dissolve dogma and the dogmatic, mentality. Accordingly Secularism was made the basis of a uniform and national identity.

Shaped in the Nehruvian framework the new state thus embedded two key principles: a commitment to secularism and democracy. Whereas the former was viewed as a symbol of India's modernism and indicative of its determination to reject religiously based separatism the latter introduced corrosive political participation, which it was hoped in time, would undermine solidified ethnic opposition. In this respect Gurharpal Singh observes that soon after 1947 four guidelines were established for regulating ethnic conflicts. First, no secessionist movements were to be tolerated, if necessary they would be suppressed by force. Second given the compliment to secularism no demand for political recognition of a religious group would be considered, third, no capricious concession would be made to the political demands of any linguistic, or other culturally defined group. Finally, no political concessions to cultural groups in conflict would be made unless they had support from both sides. (Singh, 1993: 85)

After independence some early steps were also taken which appeared to lead the country towards the goal of becoming a multicultural polity. These included reorganization of provinces on a linguistic basis, the provision of considerable autonomy to these provinces as administrative units, and the adoption of three languages formula for both education and governance. Some observers viewed this as a very a positive trend which they called it a process of building a state nation rather than a nation-state. The state nation policies according to these observers stand for a political-institutional approach that respects and protects multiple but complementary socio-cultural identities. State nation policies recognize legitimate public and even political expression of active socio-cultural cleavages, and they also evolve mechanisms to accommodate competing or conflicting claims made on behalf of those divisions without privileging or imposing any one claim. State nation policies involve creating a sense of belonging with respect to the state wide Political Community, while simultaneously creating institutional safeguards for respecting and

protecting Politically salient socio-cultural diversities. The 'we feeling' may take the form of defining a tradition, history, and shared culture in an inclusive manner by attaching to common symbols of the state and/or inculcating some form of constitutional patriotism. (Linz, Yadav, 2007:54). While India in spirit might have been this but in practice in the peculiar relationship between the ideals of nation- building and secularism, democracy and secularism were defined by nationalism rather than the other way around. Indian nationalism recognized diversity but emphasized unity. So multiculturalism gave way to what can at best be described as pluralism. The difference between Pluralism and Multiculturalism, as Baljit Mann points out, is crucial. Pluralism merely acknowledges the existence of different identities. Having recognized diversity, it attempts to establish political arguments that would ensure peaceful co-existence. This coexistence does not have to be based on principles of equality and justice. The rules of coexistence could in fact be laid down by a dominant majority, which defines the codes of conduct in public spheres. Minorities or marginal identities have to comply with these codes. Their compliance earns them the grant of cultural rights within the overall framework of the established codes, while questioning the established codes could invite a majoritarian backlash and withdrawal of cultural rights. Coexistence established by pluralism is therefore, always tenuous and uneasy. Multiculturalism, on the other hand flows directly from the principles of equality and justice, which are believed to operate not only among individuals, but also among communities. It would, therefore, be unacceptable if the codes in the public spheres are defined by a dominant or majority community. These codes have to be sensitively evolved and delicately nuanced. A common ground has to be found in the firm belief that minorities and marginal communities are not 'granted' rights; they simply have them as a form of human rights. (Mann, 2008:68) As already mentioned that while Constitution of Indian granted educational and cultural rights to minorities, neither in the constitution nor in later policies there were clear efforts for effective empowerment of minorities. While individual civil and political rights of persons belonging to minorities were not violated, the Indian democracy basically became majoritarian.

It is now well accepted that in the functioning of a majoritarian democracy, majority individuals are relatively advantaged and minority individuals concomitantly penalized. In the competitive process for socio economic benefit, which is governed by a wide range of implicit socio-cultural preferences, processes, nuances and attitudes, the relative advantages and privileges of majority individuals are assured. Focusing only on the members in a host of social benefit indicators, such as income levels, educational levels, professional standing, etc, and then attention to improve the numbers ratio solely by affirmative action does not speak to the structural and systemic causes. Rather, it facilitates the operation of these politico-structural causes of minority inequality by leaving them obscure and unchallenged. The basis of Indian nation-building, nationalist ideology and sources of political mobilization have been majoritarian centric. What Indian constitution prescribes for post-British India was a polity that could have succeeded in a society of individuals. Preambulary principles and constitutional vision were always vulnerable in a country where the nationalist discourse, governing responsibilities and patriotism were bracketed with the majoritarian consciousness and minority members were framed as undesirable and unreliable socio-political element of the formers consciousness. Therefore, roots of majoritarian nationalist discourse and glorification of identity and ideology have influenced and indoctrinated leadership at national and sub-national levels. In this, as Arshi Khan observes even federalism has become a subject of bargaining between the Union and state governments and both of them have so far maintained deliberate ignorance to the violation of

fundamental rights of minorities and their exclusion in the structure of power. Most of the Indian political scientists and other scholars have also taken a simplistic picture of federalism and its responsibility to the needs of the people of the country. First of all, they take the Indian Constitution as the non-defective part of the Indian Political system, particularly in the realm of the rights of minorities under federalism. Similarly they view Indian society of communities more as a civic community and very 'public' in character for fulfilling the need of liberal democracy. When they are faced with the agenda of criticism they either blame pronounced leftists, rightist or fanatics for the political ills. As a result, such kind of criticism of some political parties and organizations on the one hand and glorification of others, on the other, have only consumed our educational texts, research papers and discourse on governance. For example, in the case of massive violence against the Muslims in the state of Gujarat, many have categorized a particular party and its organization by ignoring other basic factors which encouraged to indulge into this crime against humanity. In other words, the factor of their exclusion and marginalisation in structures of power has not been raised at the minimum level of civic understanding. The final result is quite visible as the largest minority which constitute about 13 percent of Indian population and is 15 to 24 percent in some states are not only excluded in power structure but also has been vulnerable victims of ethnic violence, discrimination and deprivation. (Khan, 2002: 35) A number of independent studies, NSS data, Gopal Singh committee report 1983 and finally Sachhar Committee report all show that Muslims have been consistently under-represented in almost all walks of public life and benefits of development. They have been consistently under-represented in Parliament at about 5%. The highest representation achieved by Muslims was in 1980 when they constituted 9.2% of Lok Sabha. (Jayal, 2006:115) Their representation in the country's highest civil service has been about 3.5 percent. They are behind also in literacy. Their enrolment in elementary schools is lower, and even lower in secondary schools, 35 percent of what would be a share equal to their percentage of the population. They do better in enrolment in universities 83 percent of expected share. But they lag behind in the preferred business courses and engineering courses. Similarly with representation in administration and faculties. The numbers of company directors is minuscule. Muslims do sit on major judicial benches, hold posts as ministers in central and state government, have served as president are leading journalists and academics, but there is no question their presence in India's elites is much less than might be expected on the basis of their numbers. (Glazar, 2009:186)

The reasons for the above are traced to economic marginalization, physical segregation, social discrimination and cultural isolation faced by Muslims. The communally prejudiced attitude of administration, law enforcement agencies, including judiciary at times, and sections of political class has been there overtly and covertly. Several judicial commissions of inquiry, official reports and human rights groups have brought out instances of partiality and even open collusion against minority in situations of conflicts or communal riots on part of administration and police. Some studies have shown that there is a close linkage between anti-Muslim prejudice and the way Pakistan, as a perfidious Muslim neighbour, is perceived by sections of the Indian public and politicians.

The tendency has been to vilify the minorities as traitors of the nation, who act at the behest of hostile countries, for example, some leaders of the recent anti-Muslim violence in Gujarat went to the extent of calling for the dismemberment of Pakistan. (Subramanian, 2006: 123) The perception of Pakistan as a hostile Muslim neighbouring state in the Hindu mind has led to the development of a negative stereotype of Indian Muslims. Popular literature in India on

partition, including some text books, present the issue in such a way that it makes every Muslim responsible for the genesis of Pakistan. The historical fact is that not more than 5 percent Muslims had supported the creation of Pakistan while 95 percent had either nothing to do with Pakistan or they were politically and emotionally opposed to it. Moreover, the present generation of Indian Muslims, who were not around at that time could not have anything to do with the creation of Pakistan: How can they be held responsible for the partition? But they and for that matter Muslims in general remain suspect as loyal to Pakistan. S.M. Murshed, a former senior civil servant's statement speaks a lot in this:

“In 1969, I was in the home department of the government of West Bengal. Jyoti Basu of the CPM was my minister and also deputy chief minister. One day I drew his attention to a copy of a circular issued by the center which suggested that I should be removed from my post. It said, in effect that Muslims should not hold any sensitive post in government. There was a companion circular to the effect that Muslim applications of passports should be subjected to severe scrutiny. These were first issued in the 1950s and reiterated from time to time. The infamous circulars were obviously based on the premise that the integrity of Muslims in India was suspect. The same nation manifested itself in West Bengal in 1965 during the Indo-Pak war. Thousands of innocent Muslims were arrested and kept in detention without trial on no other ground than their religion.” (Khan, 2006: 153)

A number of reports bring out that internal security laws and anti-terror laws are used against communities that do not fall in line with state policies. According to India's former Minister of State for Home Affairs, M.M. Jacob, a total of 26,915 people had been detained under TADA between 1988-91. Surprisingly, the highest figure were recorded in Gujarat (9,569 persons) where the menace of terrorism was very low compared to Punjab, Jammu and Kashmir and Assam. According to Amnesty International's report TADA was disproportionately used against tribals and Muslims. In Gujarat, three quarters of those held under TADA at the end of 1989 were Muslims.

One may like it or not but one has to recognize the unpleasant fact that widespread discrimination and intolerance based on religion and ethnicity continue to exist and minority rights are unlikely to be taken seriously in such an environment. Will Kymlicka and others who have challenged the suggested neutrality of liberal democracies seem to be quite right in their observation that what appears on the surface to be a neutral system of common rights turns out, on inspection, to be a system that is heavily weighed in favour of the majority group (Kymlick 2001:43) In India, what has happened in addition during recent decades is the rise of a strong rightwing Hindu ideological tendency, usually characterized as Hindutava, which is openly hostile to minorities. From the mid 1980s, an aggressive form of Hindu communalism has been at work in Indian politics seeking to hijack the Indian polity in a direction opposed to that established at independence. An official report mentions that 40 major communal riots took place during 1990 in the states of Uttar Pradesh, Bihar, Madhya Pradesh, Gujarat, Karnataka, and Maharashtra. Since then, communal violence has been one of the main features of internal disruption and disorder in Indian politics. The rise of 'Hindu Nationalist' political forces under the rubric of the Sangh Parivar (the BJP, VHP, RSS and the Bajrang Dal) and their acquisition of state power in New Delhi in the late 1990s appears to have strengthened the 'institutionalized' riot system' in certain cities (Brass, 1997). This system was clearly in the Gujarat carnage of 2002. By mobilizing public opinions around issues such as the construction of Ram temple in Ayodhya, the abolition of the article 370 in case of Kashmir the promotion of uniform civil code,

and the abolition of special rights of minorities the BJP and Sangh Parivar have transformed the pattern of political discourse in India forever. (Harshe, 2008:252).

The remarkable convergence that has developed between the representatives of this tendency and the state, has alarmed the minorities, more so Muslims and Christians. They are perceived as a threat and are regarded as not belonging. Muslims ought to be in Pakistan, Christians ought to be in the West. These minorities hardly differ racially from the majority. All are Indians. No one came much later, or much earlier than any one else, although their religions did. It is the identification of 'Indianess' with 'Hinduness' that must reduce the non-Hindus to subservient status. The charge here is of cultural betrayal. The perception is that Muslim and Christian loyalties lie elsewhere, just as the loyalties of Catholics in England were perceived as belonging to Rome, and not to the Crown. The overall result is that secularism, equality before law, protection against violations of due process, affirmative action for the disadvantaged and minorities are affirmed again and again in the Constitution and the laws, but the national commitment in the matter of protecting civil and human rights of the minorities and extending social justice to disadvantaged social communities by the measures provided has weakened. This has given rise among the minorities and other disadvantaged communities to the feeling that Martin Kind Jr. articulated in the context of the Negroes in the United States. (Ahmad, 2000: 53).

Having already suffered from the unitarism of state nationalism and homogenizing tendencies of majoritarian nationalism, minorities face further marginalization under the impact of globalization. Globalization has engendered deep insecurities in the more vulnerable countries and communities. What would seem "exciting and empowering" to some would be "disquieting and disempowerment" to others. Economic opening up has brought industrial scale exploitation to traditional habitats and unsettling long-established ways of life. When resource conflicts have arisen, nation states have failed to defend the rights of indigenous people. Minorities cultures and languages are under threat because of market forces favouring international and major national languages as also encouraging western lifestyles. May be it is a coincidence that during about last three decades intended or unintended, state policies or lack of them, emergence of rightwing Hindutava, international terrorism and its projected religious links and processes of globalization all have resulted in a feeling of deprivation, frustration and alienation of minorities, particularly the Muslims. It is obvious that if members of a community are distrusted, if their loyalty to the country is held under suspicion, if they are demoralized and discriminated against, they are bound to feel aggrieved, alienated and anguished. The lessons of history are clear. More the unitarist nationalism tries to brush political differences, social contradictions, and identity assertions under the carpet more it proves counter-productive Jawaharlal Nehru himself made this point clear as far back as 1930. In the young India of 15 May 1930, he wrote:

"The history of India and of many of the countries of Europe has demonstrated that there can be no stable equilibrium in any country so long as an attempt is made to crush a minority or to force it to conform the ways of the majority. There is no sure method of rousing the resentment of the minority and keeping it apart from the rest of the nation than to make it feel that it has not got the freedom to stick to its own way. Repression and coercion can never succeed in coercing a minority. They but make it more self-conscious and more determined to value and hold fast to what it considers its very own. It means little whether logic is on its side or whether its own particular brand of culture is worthwhile or not. The mere fear of losing it makes it dear. Freedom to keep it would itself lesson its value..."

The Indian experience, as of many other multi-ethnic societies, tends to reject the need for any single or uniform pattern of identities for a nation-state to take effect. Indeed, as Rajni Kothari

argues, that if the national elite in India had sought to impose one kind of identity on the whole people of India, it would most likely have failed, and if it had succeeded it had only turned the country into pieces. Unfortunately the ideology of Hindutava is mobilizing the majority in favour of constructing such a single and seamless “Bhartiya identity”. This ideology, premised on the conflation of nationalism and ethnicity, is elitist, exclusivist and hegemonic. In fact, it, as A.R. Momin puts it, seeks to impose the world view and ideology of a minority group, namely the Brahmins and other upper castes, on the majority of India’s population composed of the lower castes, dalits, minorities and tribals. It essentializes Indian civilization by disregarding its characteristics diversity. It aims at de-ethnicizing the minorities and other groups and to disempower them by coercing them to assimilate in the Hindu mainstream. Majoritarian nationalism, camouflaged as Hindutava, has exacerbated inter-religious and inter caste tensions and conflicts. (Momin 2001:14).

It is therefore important, first of all, for both civil society and state in India to recognize that despite the provisions of non-discrimination and equality in matters of state policies and programmes, a gap persists between the legal precepts and actual practices. Also contrary to assumptions made only a few decades ago by liberal, socialist and Marxist theoreticians issues involving culture, language and religion in general related to identity have not progressively faded away in India, as in most parts of the world. The task of nation-building is arduous and ticklish and no royal road can be prescribed to achieve it. However, to begin with public institutions must demonstrate and not simply assert their commitment to a non-discriminating mode of functioning, offering genuine equality of opportunity to all.

The constitutional and legal framework is one aspect of the matter; social behaviour and state practice is another. Quite some time back Permanent Court of International Justice said, the objective of minority rights was two fold: to secure for minority groups the possibility of living peacefully along side the rest of the population and cooperating with them while at the same time preserving the characteristics which distinguish them from the majority and ensuring special needs to them. It held that these two characteristics are indeed closely interlocked, for there would be no true equality between a majority and a minority if the latter was deprived of its own institutions and was consequently compelled to renounce that which constitutes the very essence of its being a minority. The court, therefore, held that:

“Equality in law precludes discrimination of any kind, whereas equality in fact may involve the necessity of different treatments in order to attain a result which establishes an equilibrium between different situations. It is easy to imagine cases, in which, equality of treatment of the majority and the minority, whose situations and requirements are different, would result in inequality.” (Ansari, 2007: 3)

It is in the interest of India’s social stability, socio-economic development and meaningful security that we accept that the provisions and observance of minority rights in letter and spirit. Concerns for minority interests and safety are not “minorityism” as is some time projected by Hindutava forces. Agenda for social and political development cannot be set by one group or community, may that be majority. It has to be inclusive, fair and just, providing the scope to marginalized groups and minorities for participation in the decision making process, share in political power and enjoy benefits of development.

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