Minority Rights In Indian Democracy: A Multicultural Perspective

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Abstract: The term 'Multiculturalism' has not been used only to describe culturally diverse society, but also to refer to a kind of policy that aims at protecting cultural diversity. The experience of the past   five decades has underlined the need to accommodate cultural diversity in the public arena. Multiculturalism's entry into the theoretical realm has helped many societies to solve the problems and conflicts on the basis of religion, language and ethnicity. Countries have made effort to protect the rights of the minorities in multicultural perspectives. India is an outstanding case for the study of multiculturalism. It is home to policies of legal pluralism in religious family law, territorial autonomy for several linguistic and tribal groups, as well as quotas in legislatures, government jobs and educational institutions for caste and tribal minorities. As a multicultural document Indian Constitution provides several provisions to protect the rights of minorities. Indian democracy is not consociational has adapted consociational devices for dealing with diverse conflicts within society. Therefore, an effort has been made here to study an overview of interface between Constitutional provisions and rights actually exercise by minorities in India and how multiculturalism impact on Indian democracy with reference to minority rights.

Key words: Multiculturalism, Minority rights, Constitution of India, Indian democracy, Self Government rights, Cultural rights, Representation.

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1   INTRODUCTION:

The term „multiculturalism", however, has not been used only to describe a culturally diverse society, but also to refer to a kind of policy that aims at protecting cultural diversity. Multiculturalism traces acceptance, promotion, and existence of multiple cultures within a single jurisdiction. Multiculturalism is a long historical phenomenon and there have been countries did adopt multicultural policies, like the Ottoman Empire, the study of multiculturalism in a systematic way flourished in the late twentieth century, and then multiculturalism receives special attention. Democracy and minorities are supplementary and complementary in nature. India as a diverse country can claim the success of democracy in the real sense if the minorities will enjoy maximum security, protection, and confidence.   Franklin Roosevelt highlights this datum and presages that "no democracy can long survive which does not accept as fundamental to its very existence the recognition of the rights of minorities."

2   DEFINING MINORITIES:

Minorities are generally those sections of people who are less in number and evidently stand distinct and unique from the majority. On accounts of their lesser strength, they tend to become more conscious about their rights and privileges and claims for constitutional rights and safeguards for their protection and upliftment. Capotorti defined minority as, "A group numerically inferior to the rest of the population of a State, in a non- dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics different from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion, and language." communities are demanding greater recognition of their distinctive identities and greater freedom and opportunity to preserve and cherish their unique cultural practices.

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Claims of the many minorities have been gaining wider prominence in many parts of the world. In response to these many countries adopted various mechanisms. In this direction, it can be said that the theory of multiculturalism has come to the theoretical realm as a defender of minorities rights and consequently as a solution to cultural conflicts all over the world on the basis of religion, language and ethnicity.

a.   Indian Multiculturalism:

India is one of the democratic states in which society is pluralistic in nature. Existence of different ethnic groups, religions, languages and caste divisions makes India a plural society. Within Hinduism different philosophical sub-sects, linguistic groups and, thousands of castes can be seen. There are philosophical sub-sects such as Vaishnavism, Shaivism, Veershaivism in Hindu religion. Linguistically there are Tamil, Gujarati, Kannada, Marathi, Konkani, Malayalam Bengali, and other speaking groups. Presence of 22 officially recognized national languages and more than 1162 nonscheduled languages and dialects make India a linguistically diverse society. Indian society constitutes a large proportion of religious minority communities which include Muslims, Sikhs, Parsis, Christians, Buddhists, and others. With the people of different faiths living together Indian society has maintained plural characters. But the question is to what extent this existence has facilitated minority groups' aspiration for greater public recognition of their distinctive identities and greater freedom and opportunity to preserve and cherish their unique cultural practices? Such questions emerge because even before independence there was an assertion of identities on the part of a majority and minority communities. In this context, it is necessary to understand the status of minorities in India in its democratic life since 1947.

b.   Indian Constitution and Minority Rights:

For minorities, multiculturalism propounds three kinds of rights which can claim in nation-state (Kymlicka, 1995:27). Those rights are Self-Government Rights, Cultural Rights, and Special Representation Rights. There are several numbers of provisions in the Indian Constitution to safeguard minority rights. 'India was one of the first

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countries to give constitutional recognition to the minority communities' (Mahajan 1998:83).

i.   Self-government Rights:

These rights have territorial implication and are sought by communities that are concentrated in a specific region or by those who have occupied a given territory over a long period of time (Mahajan, 2002:106). 'With governing powers, they can take decisions on key matters such as education, immigration, language, land and resource use, family law, cultural rites, and administrative structure'(Ibid:107). To a certain extent, this kind of self-govt rights are there in India for certain regions. Autonomy for certain regions in India is in serious problem and autonomy for these areas has been opposed by certain political forces (Swami, July 2000). Tribal communities in India are distinct ethnic minorities who have been given Constitutional protection to protect and preserve their identity. Architects of the Indian Constitution have done justice in this regard by providing separate provisions. These provisions are similar to the self-governing rights of multiculturalism. There are special provisions for the administration of certain areas called as scheduled areas and tribal areas, in Indian Constitution. The fifth schedule of the Indian constitution incorporates the control and administration of scheduled areas. One important feature associated with the 5th schedule is that of the constitution of Tribes Advisory Councils. They 'are to be constituted to give advice on such matters as welfare and advancement of the scheduled tribes in the states as may be referred to them by the Governor.' (Ibid: 293). The 6th schedule of the Constitution deals with the tribal areas in Assam, Meghalaya, Tripura, and Mizoram. According to this Schedule, these areas get autonomous districts status. The people of these Scheduled and tribal areas have lost autonomy over their regions in the sense that their areas have been converted into areas of mining (Padel&Das, 2010 and Padel, 2000). A number of developmental projects have come up, large scale displacement is taking place, and above all those who protest any imposition of unwanted development are branded as either Naxals or terrorists. Some parts in north-eastern states in which there is large tribal population are now under the Armed Forces (Special Powers) Act of 1958 (AFSPA). It is observed that this Act is, 'one of the more draconian legislations that the Indian Parliament has passed' (Human Rights Documentation Centre). This Act provides security forces 'unrestricted and unaccounted power to carry out their operations, once an area is declared disturbed. Even a non-commissioned officer is granted the right to shoot or kill based on mere suspicion that it is necessary to do so in order to "maintain the public order" (Ibid).

ii.   Cultural Rights:

Cultural rights are sought in the form of exemptions, symbolic claims and claims for recognition (Mahajan, 2002:94-106). Many of cultural rights are provided to minorities in India are similar to rights envisaged for minorities in multicultural theory. The Indian Constitution is considered a multicultural document because it provides a number of measures for the recognition and accommodation of the country's diversity (Bhattacharya, 2003:151-152). Article 29(1) of the Indian Constitution

ensures the fundamental right to any section of the citizens having a distinct language, script or culture of its own to preserve the same (Pandey, 2005:313). Both religious and linguistic minorities have a claim to this right. Article 350A of the Constitution directs, 'every state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups and empowers the President to issue a proper direction to any state in this behalf '(Basu, 2011:400). Article 350B states that a 'special officer for linguistic minorities shall be appointed by the President to investigate all matters relating to the safeguards provided for linguistic minorities under the constitution and report the President'(Ibid). The Preamble of the Indian Constitution states that India is a secular state. As a secular state, India is supposed to observe neutrality and impartiality towards all religions (Fadia, B.L2004:126). Article 25 ensures to all citizens the freedom of conscience and the right to freely profess, practice and propagate religion. (Ibid). According to this provision, all religious minorities in India have freedom of conscience and the right to freely profess, practice and propagate their own religion. Article 347 states that if there is demand on the part of a substantial proportion of the population of a state desiring the use of any language spoken by them to be recognized by that state, President may direct that such language shall also be officially recognized in that state for such purpose as he may specify (Pandey, 2005:670). Article 30 of the Constitution provides cultural and educational rights to both religious and linguistic minorities. Article 30(1) ensures the right to all religious and linguistic minorities to establish and administer educational institutions of their choice (Basu, 2011:401). Article 30(2) states that the 'state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language' (Ibid). Multiculturalism's understanding is that it is essential for the State to promote minority culture and provide some space in the public arena. According to multiculturalism symbolic claims means how minority communities are represented in the public arena and in cultural symbols of state like the national anthem, declared public holidays and even the name of the State (Mahajan, 2002:103). The Indian national anthem is inclusive in the sense that it talks about the celebration of the cultural diversity of Indian society. There are a number of holidays for the minority community to celebrate their festivals. National Commission for Minorities is another institutional mechanism to safeguard the rights of minorities. National Commission for Minorities is not free from any criticism and opposition for its existence. Recently there has been concern about the threat to minorities' right to life and property. Still, there is a concern on the part of minority that the government is not handling the attacks on a minority with necessary actions. The government needs to do a lot in ensuring their physical security and protecting their personal property. It is rightly observed that the, 'real challenge before secular democracy in India is to create a political and institutional environment for the protection of rights of diverse communities and social groups under the overall umbrella of national unity' (Bambhri, 2008:76). In 1984 many innocent Sikhs were killed by the majority community in northern India following the assassination of

Indira Gandhi. Another attack on minorities was the Gujarat riot that took place in the year 2002. The socio-economic condition of Muslim minorities in India is not satisfactory compared to other minority groups like Jains, Sikhs, Parsis, Buddhists, and Christians. The socio-economic condition of this community has recently been highlighted by the Sachar Committee Report (Government of India, 2006)

iii.   Special Representation Rights:

Multiculturalism propounds special representation rights for minorities to ensure equal citizenship and genuine inclusion in the political system. Understanding of multiculturalism is that if diverse communities get an opportunity to set public agenda they enrich policies by contributing their distinctive cultural perspectives and experiences (Mahajan, 2002:110). The multicultural idea of ensuring diverse communities to set public agenda implies that minorities in India need representation in Parliament and state assemblies. In India minority's representation in State assemblies and Parliament is low compared with the size of their population. The Indian Constitution has not given as such special political reservation to minorities but Indian politics has always facilitated and nurtured minority presence in governmental bodies.

c. Indian Democracy and Minority Rights:

India, with its 1.34 billion people, is by far the world's largest democracy, as well as the oldest democracy in Asia, Africa, and Latin America. Its constitution describes India as a secular state and protects religious freedoms. Myriad cross-cutting social cleavages based on religion, ethnicity, language, and caste, have historically mirrored the system of checks and balances in the political realm. India, like so many countries, has recently witnessed the rise of xenophobic nationalism and violence against religious minorities. The United States Commission for International Religious Freedom (USCIRF) 2018 report designates India—alongside Afghanistan, Azerbaijan, Bahrain, Cuba, Egypt, Indonesia, Iraq, Kazakhstan, Laos, Malaysia, and Turkey— as a Country of Particular Concern because of the extent and nature of violations of religious freedoms that the government tolerates or promotes. The USCIRF attributes responsibility for anti-minority violence to Hindu nationalist organizations, including the governing Bharatiya Janata PartyA multicultural solution of self-governing rights for some minorities are indeed good if any minority which demands such right is ready to accept and remain within the framework of sovereignty of nation-state in which it resides., otherwise the main purpose of granting such right would be undesirable. It would, 'pose a challenge to the liberal notion of nation/state, i.e. it may lead to secessionist movements' (Talukadar, 2008:101). India has already experienced and has been experiencing such separatist tendencies. There was a demand by Sikh groups for separate nation Khalistan (Kohli, 1998:20). In the northeast region of the country, many separatist organizations like NSCN are expressing similar demands. There is no solution in multiculturalism for such anxieties. The solution of multiculturalism for cultural conflicts is ensuing radical thoughts enhancing the quality of democracy in a pluralistic society. But some segments of plural societies which are concentrated in certain geographical regions demand separate states. In such situations, multiculturalism is not enough and convincing mainstream segments of the society in the interest of protecting Sovereignty is the solution in the long run.

CONCLUSION:

In the modernization process, pluralism has arisen and it enhances multiculturalism and multi-ethnicity. Democracy may content and rational with the difference of interest and opinions. In this regard as a democratic country, India can take initiative to solve the pluralism problem with the help of a neutral approach. There may concern with negotiation, trading and compromise formula, segregation of group rights and consociationalism, as well as recognition of differences and accommodation of differences in multicultural perspective. It mixes voices and promotes deliberation, pooling of sovereignty, partnership and dispersal of power (Scott, 1998). It is compromised by negotiation. A continuous process of discussion is required in a functioning democracy. Through the discussion and the interplay of ideas come from public opinion. The Indian Constitution is a treasure where minorities can find various articles and provisions that safeguard their rights and privileges. The Constitution of India is an archetypal instance of accommodating and adjusting various claims of people belonging to multifaceted cultures and identities. In the Indian Constitution, there are many ways through which the minorities safeguard their rights. These include the ideals enshrined in the 'preamble', 'Fundamental Rights', 'Directive Principles of State Policy' and various other articles and provisions. Therefore it is crystal clear that the Indian Constitution has a significant role and is important source of guaranteeing the rights and privileges of the minorities in India. Unfortunately, the rights of minorities are more on paper than in practice. There are enough debates to consider India as a perfect multicultural society but the question remains to be answered is to what extent it has been realized.

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