

## **Minority Communities in India : Historical and Contemporary Sketch**

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From last independence the conflict started between minority and majority. And political parties looking only political power but they don't think about the concept and characteristic of minority. Therefore tension arising day by day. "The minorities are subjected to discrimination deprivation and marginalization in the society and politics where the majority enjoy dominance and supremacy other basic issues affecting the lives of minorities are poverty and constraints on self-determination." <sup>1</sup>The origin and character of minorities is dictated more by history than by logic hence, in what follows we shall make an attempt to provide in brief historical root of minority in India.

"Excavation carried out in river beds valleys and in widely scattered mountain caves, foothills and mounds clearly indicate that man had emerged in India as early in the prehistoric times as anywhere else in the world. In different part of the country cultural development had progressed over a long period from the nomadic to hunting and food gathering and thence to settled agriculture"<sup>2</sup>

The recorded history in India is essentially one of a succession of immigrating people varied in racial and geographical origin, most of who came not only to rule the country but also to lose their racial identity by becoming assimilated into what is called the Indian culture.

It was around 1500 B.C that, India was invaded by the Aryan tribes and by 500 B.C the Aryan civilization had spread from scripts

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and languages, literature the sciences, such as mathematics, astronomy, physics and chemistry. a pervasive transformation had also occurred in social organization the evolution of the caste system with material progress arose the need for introducing functional diversification and the Aryan society come to be divided into three groups the Brahmins monopolizing the dispensation of religion, acquisition of knowledge and imparting of education; the Kshatriyas specializing in difference and warfare; and the Vaishyas pursuing all the varied mundane tasks of agriculture, industry, trade and commerce. In course of time, the functional character was replaced by the heredity principle according to which birth determined the caste of an individual; a process of multiplication of caste through subdivision resulted in a rigid social structure that permitted little scope for horizontal or vertical mobility. The caste system manifests the subordinate Dravidian majority to the invading Aryan majority in the second millennium B.C.

More reliable information about the history of India is available from the fourth century B.C. during the invasion of Alexander the Great the brief invasion of the north-east. by Alexander between 327 and 325 B. C. provided an opportunity for Chandragupta Maurya of unify the various independent kingdoms and to establish the greatest of the ancient India empire the Mauryan. It reaches its zenith during the reign of Chandragupta's grandson Ashok (273-232 B.C) under whom the empire stretched from Afghanistan to Bengal and included all the Jands south of the Himalayas except the southernmost region of the peninsula.

Ashoka's conversion to and adherence of Buddhism result in his concentrating during most of his rules in spreading Buddhism not only in India but also in sir lank a and sought and east Asian countries including China apparently his rule was firm and orderly and he is probably the most benevolent of the monarchs in Indian history, the MaryAnn empire collapsed within so years of Ashoka's death and the next six centuries were characterized by political disunity resulting

in great and wide scatter of kingdoms principle elites and feudal lordships.

However in AD 320 arose the second of the great emperors held to establish a vast empire which spread from the Indus to the Brahmaputra in the great planes over the central Highlands and much of peninsular India, this 200 years of Gupta rule were a period of political stabilization and there was reactivation of trade with east and west Asia. Indian literature reached its peak with the poet Kalidasa; art, science, philosophy, and law all flourished.

Towards the end of the fifth century, the white Huns and associated tribes descended on northern India, destroying the Gupta empire and all political unity, these attacks were followed by general anarchy in northern India that lasted until the early seventh century when the Harsh dynasty was able to provide the country with some degree of respite.

Evidence also indicate that a non-Aryan civilization had flourished in southern Indian even prior to 1000 B.C. the inhabitants was probably the early Dravidians who were driven out of the Sindus valley by the invading Aryan, the southern Dravidian by active sea trade with the mediterranean world and eastern Asia, some of the more impotent southern kingdoms were the pal lavas at kanchs the cholas on coriander coast in the east and pandas in the tip of the peninsula, and each of them had very long tenure, the country however, remained for a long time divided into a very large number of kingdoms engaged in constant warfare with each other.

In northern India, the Gupta dynasty (A.D. 320-600) was followed by first Arabic invasions of the north-west, there was no unifying force in India at the time that could withstand their depredations, and ultimately the country fell into the kind of Muslim rulers Muslim rule in India began with Quthub-din-Aiback early in the thirteenth century in Delhi. It was limited to the Great Plains for the most of the period stretching down to the establishment of the mogul empire early in the sixteenth century.

Notable amongst the mogul emperors were Akbar the great and Shahjahan, who shifted the capital from Agra to Delhi Akbar is known for this benevolent rule patronage of fine arts and literature and for his rather unsuccessful attempt to propagate a religion based on the synthesis of Islam and Hinduism his empire spread all over India excepting the southernmost kingdom, Shan jahan is known for his love fine arts and architecture. It was he who built the famous Taj Mahal as well as the well-planned city of Delhi named Shahajanabad after him and the red fort and jama masjid of the city.

The Muslim rulers of Delhi in establishing their Indian empires, exercised their powers in the more distant part of their dominions through feudatory chiefs, who often asserted independence and become sultans or nawbs and established their own dynastic kingdoms, Even before the Mughals occupied Delhi the country had a large number of such Muslim rulers which succeeded in asserting its governorship vis-a-vis these Muslim rulers as well as the lingering Hindu rules of the past, time and again Hindu kingdoms arose and even prospered during the Muslim period especially in the great vijayngare empire which ruled over substantial part of peninsular India for nearly 250 years till it was taken over around A.D.1670 by the neighboring Bahaman sultanate

The Mughal Empire collapsed during eighteenth century coercive forces were weakened, although the reasons for this decline were complex. Aurangzeb was mostly responsible. He become embroiled in a major war with the Decca, the situation worsened after his death in 1707 with the seize of Delhi by the personal ruler, Nadir Shaha in 1739 and with the subsequent establishment of Afgon power in the north-west under Abmad Shah Abdali, Aurangzeb's successors eventually become pensioners first of the Marathas and then of British. The former Mughal governors Marathas and the Sikhs under Ranjit Singh, establishing independent center of power, thus the third great Indian empire went the way of its predecessors; like them it left a cultural and political legacy, which was obscured but not lost.

During the sixteenth and seventeenth century's groups of purges Dutch English and French traders seeking control of the western trade in spices and fine cloth with India and other eastern lands, set of trade posts in the coastal regions advised with one another for political influence and control of various rater of different part of the country. The most important of these was the British East India Company, which came to India in Mughal times. In the eighteenth century, however, from insignificant and peripheral post the company began to accumulate. In 1940, "Though the Congress and Muslim League had some reservations about the Cabinet Mission Plan and formation of the Constituent Assembly, ultimately, Congress decided to accept the Constituent Assembly, but the Muslim league protested against it. Already in 1940, the Two Nation Theory was proclaimed by the Muslim League and it had demanded separate Pakistan for the Muslim."<sup>3</sup>

#### **Constituent Assembly Debate on Minority**

"In British India, the British adopted the policy of giving special recognition to the Muslims, along with the Sikhs, Indian Christians, Anglo-Indians and the Depressed Classes. The formation of the Muslim league is an important event as to the recognition of minority rights of the Muslims in India. The Depressed Classes, under the leadership of Dr. B.R. Ambedkar were successful in getting recognition as a minority community in British India"<sup>4</sup> Therefore the formulation of religious minority in India the process of the committees such as "The Morley-Minto Reforms, the Simon Commission, the three round table Conferences, the Communal Award, The Cabinet Mission Plan and the Constitution assembly are the milestones in the study of the Concept of Minority in India"<sup>5</sup>.

The whole debate in the constitution Assembly on Article 23 of the Draft constitution 'which later assumed the shape of the present Article 29 and 30, revolve round this issue, what right cauldron should be conceded to minorities? The reference to minorities was a reference

to minorities was reference to none other than Indian minorities existing in India. The original draft of the fundamental right submitted to the constituent assembly on April 16, 1947 by the sub-committee of fundamental right did not contain any provision corresponding to article 30 (1) and did not even refer to the word minority. The latter submitted by K.M. Munshi. Subcommittee on the same date, when, along with some other rights the right now forming part of Article 30 (1) was proposed, made a reference on the term 'National Minorities'.

The Drafting committee, however, sought to make distinction between the right of any section of the citizen to conserve its language, script or culture and the right to the minorities based on religion or language to establish and administer education institution of their choice and for this the part of draft article 23 corresponding to article 29 which now forms part of the Article 30 (1).

Dr. Ambedkar sought to explain the reason for substitution in the Draft constitution of the word minority by the words "any section" observing;

"It will be noted that, the term minority was used there in not in the technical sense of the word 'minority' as we have been accustomed to use it for the purpose of certain political safeguards, such as representation in the Legislature, representation in the service and so on. The word is used not merely to indicate the minority in the technical sense of the word it is also used to cover minorities which are not minorities in the technical sense of the word, it is also used to cover minorities which are nonetheless minorities in the cultural and linguistic sense, that is the reason why we dropped the word 'minority' because we felt that the word might be interpreted in the narrow sense of the term when the intention of this House was to use the word 'minority' in a much wider sense so as to give cultural protection to those who were technically not minorities but minorities nonetheless'

Dr Ambedkar's explanation that the right was available not only to minorities in the 'technical sense' but also to minorities in the 'wider

sense' has an obvious ferrous only to that part of Draft article 23 which now forms part of article 29 (1) and not to that which is now clause (1) of article 30. His expiation, therefore may be taken to be an attempt to broaden the scope of clause (1) of articles only so as to include within the term 'Minority' other minority group also, as contemplated and illustrated by him and thus to confine article 30(1) to those minorities which he described as minorities in the technical sense were politically recognized and the most prominent amongst them were represented in the constitution assembly also,

The whole problem as far as this part of constitution in concerned that engaged considerable time and efforts of the frame was to achieve a consensus an a constitutional arrangement, between the numerically dominant majority considered as such on the national scene and the minorities refined to above-a solution which could give the minorities a feeling of security against discrimination and security against interference with these characteristics which had divided them apart from the majority and it is too obvious to be noted that at no stage was any section of this majority even treated as 'minority'.

If these assumptions as accepted as truly reflection the intention of those who drafted and incorporate these provision in the constitutional document, with a wishful hope that they were rendering a constitutional situation to the problem of Indian minorities. It may be argued that where a minority is historical or national contort and its claim is based on religion it must be defined and ascertain in term of the population of the whole country irrespective of its being on numerical majority in any particulate state and where a group in not a minority considered as such in the national context but is still definable as 'minority' under Ambedkar's stretched meaning of the term it may be ascertained with reference to the population of the state concerned, the argument is correct, it is submitted. If the provision in the question are viewed against the historical prospective in which they were adopted, and are construed to carry into effect the true spirit, and intention of the constitution.

**Right of Indian Minorities**

India has been always multi-religious, multi linguistic, multicultural and multiracial in nature and had no objection to accept this reality right from the time of the independence. A peculiarity of the minority situation in India is the size of the minorities. Minorities elsewhere are small in size, whereas in India they are multi-million strong, sometimes larger than the entire population of many countries of the world.

The deprivation of a minority in India involves the deprivation of many millions of people, their general educational backwardness poverty, law representation in political institution and government service. The Indian minority have remained backward, since there has been to let up on the communal disturbances, from the Jabalpur riots in the early 1690s to this day the country has witnessed literally thousands of communal holocausts.

The provocative slogans against the minority, often asking them to leave the country defiling of their places of worship at some places and the threats to carry on such acts elsewhere, open discrimination of varying kinds partisanship of the law and order machinery. Unabashed paying of communal card by the politicians, T V coverage of their going to employ with fanfare have all stoked the fire of communalism.”<sup>6</sup>

**Indian Constitution and the Minority Rights**

The Constitution of India does not give minorities any special rights, the same rights are given to majority as well. The Constitution offers only a few safeguards to the rights of the minorities through Articles 29 and 30.

The constitution approaches the issue of protecting the minorities by two methods (i) The guarantee of what might be considered as a negative quality, which protected them from the possibility of discriminatory treatment and (ii) The Constitution confers various



positive right or what is known as affirmative action's to members of minority groups.

It is the latter, i.e., positive discrimination or special provisions that has created more debate than the former one which aims at bringing about a concrete change in the lives of the minority communities. To ensure non-discrimination as guaranteed in the Constitution, it is necessary that special procedures, institutions and arrangements have to be established in the Constitution, it is necessary that special procedures, institutions and arrangements have to be established through which members of minorities are able to make decisions, exercise legislature and administrative powers and in order to develop their culture.

Special provisions or positive discrimination should be understood in the context of Special Rights. Human Right; Minority Rights mention in regard into special rights mention, "Special rights are not privileges but they are granted to make it possible for minorities to preserve their identity, characteristics and traditions. Special rights are just as important in achieving equality of treatment as non-discrimination... this form of affirmative action may have to be sustained over a prolonged period in order to enable minority groups to benefit from society on an equal footing with majority groups to benefit from society on an equal footing with the majority." Such minority representation rights are taken as democratic means of democratization in a social and political structure, which create inequalities and injustice. Minority's rights protected them from the possibility of discriminatory treatment and also confers some positive rights (or what is known as Affirmative Action's) on members of minorities groups which they shared with other citizens of the country.

The special provisions in the Constitution are as follows;

Article 14 of the Indian constitution confers equal before laws and declares that all persons are equal before laws.

Article 15 says that no citizen shall be discriminated on grounds

of religion, race, caste, sex or place of birth etc.

Article 16 mentions equality of opportunity in matters of public employment.

Article 25 provides the fundamental rights to freedom of conscience and the right freely to profess, practice and propagate religion.

Article 26 talks of freedom to manage religious affairs given to religious denominations or sections thereof.

Article 27 ensures that no one should be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denominations.

Article 28 speaks about freedom to attendance at religious instructions or religious workshop in certain educational institutions.

Article 29 and 30 guarantee cultural and educational right of the minorities. Section I, Article 29 mentions, "Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."

Article 30 (Right to Constitutional Remedies) mentions about remedies for enforcement of rights conferred to move the Supreme Court for seeking justice. Article 30, Section (i) mentions all minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice. Section (2) provides the state shall not, in granting aid to educational institution, discriminate against any educational institution on the ground that is under the management of a minority whether based on religion or language.

Our Constitution provides for the protection of the interests of linguistic minorities. Article 350-A imposes a duty on the state of endeavor to provide adequate facilities for instruction in the mother

tongue at the primary stage of education to children belonging to linguistic minority. Article 350-B gives the power to President to appoint a special officer for linguistic minorities to investigate matters relating to the safeguards provided for linguistic minorities under the condition.”<sup>7</sup>

#### **Protection of Interest of Minorities**

Article 29 of the constitution of India defines the protection of Minorities.

- 1) Any section of the citizen residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have right to conserve the same.
- 2) No citizen shall be denied admission into any educational institution maintained by the state receiving aid out of state fund on grounds only of religion, race, caste, language or any of them.

#### **Clause (1)**

Clause (1) gives protection to every section of the citizens having distinct language, script or culture by guaranteeing their right to conserve the same. If such section desires to preserve their own language and culture, the state would not stand in their way, a minority community can effectively conserve its language, script or culture by and through education institutions and therefore necessary concomitant to the right to conserve its distinctive language, script or culture by and through educational institution and that is conferred on all minorities by article 30 (1) but Article 29 (1) neither controls the scope of Article 30 (1) nor is controlled by the article, the scope of the two is different Article 29 (1) is not confined to minorities, which have ‘distinct language’ script or culture’ but extends to all religious and linguistic minorities, further Article 30 (1) give only the right to establish and administer educational institutions of minorities choice. Thus the right under Article 30 (1) need not be exercised for conserving language script or culture.

**Clause (2)**

Clause (2) relates to admission into education institution which are maintained or aided by state funds article is prohibits discrimination against citizen on ground of religion etc. but the scope of two articles is different, firstly, Article 15 (1) protects all citizens against the state where as the protection of Article 29 (2) extends to the state or anybody who denies the right conferred by it.

Secondly, article 15 protects all citizen against discrimination gentry but Article 29 (2) is a protection against a particulate species of wrong, namely denial of admission into educational institution maintained or aided by the state, finally the specific grounds on which discrimination in prohibited are not the same in two articles 'place of birth' and 'sex' do not occur in Article 15.

The right to admission into an educational institution is a right, which is an individual citizen, has as a citizen and not as a member of a community or class of citizen; hence, a school rolls by a minority. If it aided by state funds, cannot refuse admission to children belonging to other communities but the minority community may reserve up to 50 percent of the seats for the member of its own community in an educational institution established and admission to the members of their own community Article 29 (2) however, does not confer a legal right on the members belonging to other communities to freely profess practice and propagate their religion within the precincts of a collage run by a minority community Article 29 (2) cannot be invoked where refusal of admission to a student is on the ground of his not possessing requisite qualifications or where a student is exploded from an institution for acts of indiscipline.

To overcome the conflict with article 15 as well as article 29 (2) shall prevent state from making any special provision for the advancement of any socially and educationally backward classes of citizen or for the Schedule Caste and the Schedule Tribes, the state is empowered to reserve seats in state college for socially and

educationally backward classes of citizen or for SC and ST.

### **Right of Minority to Establish and Administer Educational Institution**

Part IV containing Directive Principles of State Policy-which though not enforceable by the courts is to be 'nevertheless fundamental in the governance of the country and which the state would be duty-bound to apply in making laws (Article 37) - the Constitution mandated the State;

- a) Within the limits of its economic capacity and development to make effective provision for securing right to education (Article 41)
- b) To ensure within a decade, free and compulsory education for all children below 14 years of age (Article 45): and
- c) To promote with special care economic and educational interests of weaker sections of the people (Article 46).

Article No. 15 (4), which said that,

“to make special provision for the advancement of socially and educationally backward classes of citizens and for the Scheduled Castes and Scheduled Tribes, it envisages such special provision of the advancement of all members of such backward classes of citizen. If any discrimination is exercised between the member of a Scheduled Castes on the ground of religion only so as to promote the welfare of one group of members and deny it to the others, the denial will be invalid”.

Article 15:

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

350-A Facilities for instruction in mother-tongue at primary stage- It shall be the endeavor of every State and of every local authority within the State to provide adequate facilities of instruction

in the mother tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue to any State such directions as he considers necessary or proper for securing the provision of such facilities.

In 1978 a new clause was added to article 30 by the constitution (Forty-fourth amendment) Act; (1-A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

As regards education of children while the target set by the Directive Principle of Article 45 referred to above remained beyond the State's reach for five decades, the Constitution (Eighty –sixth Amendment) Act 2002 provided a new Fundamental Right:

21A. Right to education- The State shall provide free and compulsory education to all children of the age of six to fourteen in such manner as the State may be law determine

Article 30 of the constitution of India defines right of minority to establish and administer education institutions.

- 1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institution of their choice. [1-A] in making any law providing for the compulsory acquisition of any property of an educational institution establish and administered by a minority. Referred in clause (1) the state shall ensure that the amount fixed by or determined under such law for the acquisition of such property issue as would not restrict or abrogate the rights guaranteed under the clause.
- 2) 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 region or language.

Clause (1) gives right to all minorities based on religion or language the right to establish and administer educational institution of their own choice. Article 29 and 30 are grouped together it will be wrong to restrict the rights of minority to establish and administer educational institution concerned with language script and culture of the minorities. The reasons are; firstly article 29 confer the fundamental right on any section of the citizen which will include the minority also where as article 30 (1) confers all rights on all minorities based on religion or language, Secondly article 29 (1) is concern with language, script or culture, Thirdly, article 29 (1) is concern with the right to conserve language, script or culture whereas article 30 (1) deals with right to establish and administer education institution of the minorities of their choice. Fourthly, the conservation of language, script or culture, a minority may administer an institution for religious education, which is wholly unconnected with any motive to conserve language, script or culture, it may be that article 29 (1) and article 30(1) overlap, but the former cannot limit the width of the latter, the scope of article 30 rests on the fact that right to establish and administer educational institution of their own choice is guaranteed only to linguistic or religious minority and no other section of citizens has such a right further article 30 (1) gives the right to linguistic minorities irrespective of their religion it is therefore, not at all possible to exclude secular education from article 30.

The expression 'minority' in article 30 remains under find though the court has observed that it refer to any community. Which is numerically less than 50 percent of the population of a particulate state as a whole when a law in consideration of which the question of minority right is to be determined as state law? A community which is minority could not also be determined in relation to entire population of the country, if it was a state law, the minorities must be recognized in relation of that state, but the fact that the expression minority an article 30 (1) is used to distinct from 'any section of citizen' in article 30 (1) lends support to the view that article 30 (1)

deals with national minorities. Or minorities recognized in the context of entire nation, in that case, however, article 30 (1) would become inapplicable to the national majority even it is a minority in any particular state e.g. Hindu in Punjab or Jammu and Kashmir

Although article 30 (1) does not special protection of the article must be a minority of person residing in India. 'the minority under article so must necessarily mean those who form a distinct and identifiable group of citizen in India' Article 30 (1) does not confer upon foreigners not resident in India the right to set up educational institutions of their choice the right conferred on minorities is to establish educational institution of their choice, it does not say that minority based on religion should establish educational institution for teaching of their own language along. The article level it to their choice to establish such education institution as will serve both the purpose, namely the purpose of conserving their religion, language or culture, and also the purpose of giving a through general education to their children, minorities are however, not entitled to have educational institutions exclusively for their benefit,

#### **Clause (2)**

Clause (2) is only a phase of non-discrimination clause of the constitution and does not derogate provisions made in clause (1), the clause is expressed in negative terms; the state is therefore enjoined not to discriminate in granting add to educational institution on the group that the management of the institutions is in the hands of minority religious or linguistic, the clause does not mean that the state otherwise to discriminate so as to impose restriction upon the substance of right to establish and administer educational institution by minorities, the right established by article 30(1) is intended to be a real right for the protection of the minorities in the matter of setting up of education institution of their choice.



**Minority Rights Flow Form Articles 14, 15, 19 (1), (2), 21, 26 (1).**

Thus while it is true that it is only the minorities whose right to establish and administer educational institutions is mentioned in article 30 (1). It does not follow the same is denied to the majority communities, it was considered necessary like a special mentioned for the right of minorities by way of extra assurance to it is not correct to say that minorities were considered necessary like a special mentioned for the right of minorities by way of extra assurance to it is not correct to say that minorities were considered backward and needed concessions though article 30 (1) to bring them up, the objective was to make that they will not be discrimination against, it was not intended to pamper as favor communities, it should follow therefore from articles 14 and 15 majority communities have right to similar treatment at the hands of the in the matter of recognition of filiations government aid or non displacement management in respect of educational institution established by majority as accorded to minority institution of coerce condition can and to be imposed in regard to aid, affiliation and recognition in order to ensure standard of teaching but the same have be uniformly onerous and not be so drastic as to involve surrender by the community or founder or management of it slight to establish and administer the institution.

Apart from articles 15 and 15 (1) this right to establish and administer educational institutions also flows as seen above from articles 19(1) (9) and 26 (a) 'which make no distinction between majority comities, the right of students to education as a fundamental right under article 21, also simples that they as well as their parents have the right to choice of institutions in which they would like the former to be educated, even community has a right to found and administer education and other charitable institutional and to run them according subject perceptions of what is best of the community and for the institution subject of perceptions of what is best of the community and for the institution subject of perceptions of what is

best for the community and for the distinction for religion or language minority or majority.

In the Annual Report of the National Minorities Commission for 1998-99 submitted to the President of India in respect of minority's educational rights: which are following

- A law called 'Minorities Education Act' is enacted by Parliament containing provisions for a meticulous enforcement of the provisions of Articles 29(2) 30 and 350-A of the constitution and guidelines for the establishment and administration of minority educational institutions.
- All central laws relating to the UGC, NCERT, AICTE, MCI, BCI, and the central universities, etc. be reviewed by a high-powered committee with a view to suggesting amendments for adapting them to the provisions of the Constitution referred to above.
- A National Minorities Education Council be set up with statutory powers to work for an overall educational advancement of the minorities in interaction with UGC, NCERT and other similar bodies and having jurisdiction to regulate the working of minority educational institutions all over India.
- The 50 % reservation for non-minority students in minority educational institutions provided for by the Supreme Court decision in *ST. Stephen's* (1992) be curtailed to 25 % by specific legislation – which should also correspondingly provide that in all non-minority institutions 25% admission-seats must go to the minorities.
- All educational institutions established and administered by the minorities are specifically exempted from compulsory reservations for Scheduled Castes and Scheduled Tribes in admission and faculty appointments.
- The rules and regulations of the Maulana Azad Education Foundation be modified to the effect that all educational

institutions established and run by the minorities, under whatever law (including the central and state laws ) they may be registered, will be eligible for its grants and financial assistance.

- Education in the general institutions established, run, maintained or managed by the central, state or local self governments is kept strictly secular and no attempt be made to 'spiritualize' it in any degree by adopting or compulsorily introducing observance or singing of any select religious practice, ritual, invocation or song.
- School and college textbooks in Hindi, English and all regional languages are examined once again by a high-powered committee to ensure removal there from of all such materials that may adversely affect communal harmony and inter-community relations.
- Human rights and minority rights as recognized by the UN Declarations of 1948 and 1992, respectively, as also all Fundamental Rights and Duties enshrined in the Constitution of India, be compulsory taught at appropriate levels in all schools and college.

#### **National Commission for Minorities act 1992**

In 1992, the parliament enacted the National Commission to National Commission for Minorities Act 1992, changing the name of the commission to National Commission for Minorities (NCM) and given a statutory status, this act was passed on 17 May 1992 and it came into effected after one year on 17 May 1993, this Act gives the commission six members and a chairman.

- 1) Evaluate the progress of the development of minorities under the union and state.
- 2) Monitor the working of the safeguards provided in the constitution and in laws enacted by parliament and the state legislatures.

- 3) Make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the central government or the state governments;
- 4) Look into specific complaints regarding deprivation of right and safeguards of the minorities and take up such matters with the appropriate authorities;
- 5) Undertake case studies into problems arising out of any discrimination against minorities and recommend measures for their removal;
- 6) Conduct studies, research and analysis on the issues relating to socioeconomic and educational development of minorities;
- 7) Suggest appropriate measures in respect of any minority to be undertaken by the central government,
- 8) Make periodical or special report to the central government on any matter pertaining to minorities and in particular difficulties confronted by them.

**Some suggestions to protect and promote the right of minorities are given below,**

- a) Religious harmony group should be formed in every districts and taluka to promote harmony among all religious communities
- b) State governments must be persuaded to make legislation to pay adequate compensation to all riot victims, irrespective of their religion status or caste, sex or place of birth.
- c) The national commission for minorities act must be amended to make it mandatory for all state governments to establish statutory minority's commission.
- d) All official and constitutional agencies should function under a sound policy of recognition of social diversity and disparity as a fact of our national life.
- e) The government must be asked to direct the census commissioner to officially publish the data on socioeconomic

and educational status of each religious community, it will also help the government to fulfill India's obligation to the international community under the UN, which requires each member state to make the condition of the minorities known.

- f) The state and its custodians, at the constitutional and political level, to ensure all minorities of India get a proper and effective representation, should introduce electoral reforms.
- g) Media must endeavor to create a nationwide awareness and consciousness regarding the fact that each of the minorities in this country is part and parcel of the vast Indian nation and is entitled to enjoy all privileges and benefits along with other Indians indiscriminately.
- h) Curricular syllabuses must be thoroughly revised so also eliminate matters that create ill feeling against any particular minority community or all minorities in general.

In these points are describing that in National Commission for Minority for development of minority.

#### **Right to Instruction in Mother-tongue**

Article 29 (1) guarantees minorities the right to conserve their culture, language, script and Article 29(2) prohibits in matter of admission to the state-run or state-aided institutions discrimination on the basis of religion, race, caste or languages. Article 30(1) enables the minorities to establish educational institutions of their own choice.

Articles 29 and Article 30 enable the minorities to establish educational institutions in which instruction may be imparted throughout from class on words in their mother-tongue.

The Provincial Education Ministers conference of 1949 recommended the introduction of mother-tongue as the medium of instruction in the primary schools provided there were not less than 40 students speaking the language in the whole school or ten such pupils in a class. The recommendation was accepted by the central government but not much was done by the state to implement it. On

the recommendations of the state reorganization commission, Article 350A and 350B were inserted. The former directed every state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to the children of linguistic minorities and empowered the president to issue such instruction in thesis regard to any state government, which he considered necessary; the latter created an agency to supervise these safeguards.

The commissioner for Linguistic Minorities has been appointed under Article 350. The commission is required to submit the reports annually which are laid before each House of Parliament; The Zonal Councils are also trusted with the task of evolving common policy in this regard. Section 219) of the State Reorganization Act, 1956, lays down that a Zonal Council may discuss and make recommendations with regard to any matter concerning linguistic minorities. The constitution does not provide any safeguard for education in minority language at the higher secondary level. The south zonal council of 1961 and the commissioner for linguistic authorities to assess the demand of minority pupils, their advanced registration should be made.

#### **Use of Minority Language for Official Purposes**

According to Article 345, the states can adopt by legislation any or Hindi as the one or more of the languages in use in the state language to be used for all or any of the official purpose of the state. Article 347 empowers the President to direct in appropriate cases the use of minority language The Article runs as;

On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a state desires the use of any language spoken by them to be recognized by that state, direct that such language shall also be officially recognized throughout that state or any part there for such purpose as he may specify.

Article 350 permits every person to make a representation for the

reprisal of any grievance to any officer or authority of the union or a state in any of the languages used by the union or in the state.

The Chief Ministers Conference of 1961 agreed upon the following factors;

- 1) The official language or languages of the state concerned must be used for official purpose, but in matters where wide publicity is required or any official matter is to be communicated to any linguistic minority, the language of the minority should also be used in addition to the official language.
- 2) Petitions, applications and representations should be received from the minority in its language.
- 3) In a district where a linguistic minority constitutes 15 to 20 per cent of the population arrangements should be made for publication of the translation of the important laws, rules etc., in the minority language.
- 4) In a district of a state 60 per cent of the population speaks or uses a language other than the official language, the language of the group should be recognized as an official language in the district in addition to the official language.

#### **Cultural and Educational Right of Minorities**

The Indian constitution deals comprehensively about the cultural and educational right of individual as well as of minorities. The Article runs as follows;

- 1) Any section of the citizens residing in the territory of India or any part there of having a distinct language, script or culture of its own shall have the right to conserve the same.
- 2) Citizens shall not be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

Article 30 specifically deals with the right of minorities to

establish and administer educational institutions. The article runs as;

- 1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the state shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.
- 2) 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

Article 29 (2) contains a general provision under which the state cannot deny any citizen admission to any educational institution maintained by or receiving aid from on the grounds of religion, race, caste, language or any of them. This right belongs to minorities as well as majorities, Article 29 (1) make it obvious that a minority can do so through educational institutions, and therefore the right to establish institutions of its choice is a necessary concomitant to the right to conserve its distinctive language, script and culture, and that right is conferred on all minorities by Article 30 (1). That a minority institution should be maintained only for the preservation of its language, culture or script, thus a minority educational institution can also impart general education<sup>8</sup>

Under these right of development for the minority community in India, this right belonging to the minority fundamental preservation of religious, race, culture, and language, this right using for the educational institution for development of educational, social-economic status.



### **Educational Institution**

Central Educational Institutions (Reservation in Admission) Act, 2006, defines a minority educational institution as under;-

“Minority Educational Institution” means an institution established and administered by the minorities under clause (I) of article 30 of the constitution and so declared by an Act of Parliament or by the Central Government or declared as a minority educational institution under the National Commission for Minority Educational Institutions Act, 2004. On a reading of Article 30(1) of the Constitution read with several authoritative pronouncements of the Supreme Court and the definitions of Minority Educational Institution in Section 2(g) of Act and Section 2(f) of the Central Educational Institutions (Reservation in Admission) Act, 2006, the following facts should be proved for grant of minority status to an educational institution on religious basis;

- (i) That the educational institution was established by a member/ members of the religious minority community;
- (ii) That the educational institution was established for the benefit of the minority community; and
- (iii) That the educational institution is being administered by the minority community.

Minority educational institution means an institution established and administered by a minority having the right to do so under clause of article 30 of the constitution. Following conditions are laid down for grant of recognition to minority educational institutions;<sup>9</sup>

- 1) The aims and objectives of the educational agency incorporated in its bylaws should be clearly specified that it is meant to primarily serve the interests of the minority community to which it belongs.
- 2) The minority educational institution shall not compel any of its religious activities.
- 3) The minority educational institution shall observe general laws of the land relating to educational institution.

- 4) The minority educational institution will not use its privilege as minority institution for any pecuniary benefit.
- 5) The minority educational institution shall charge the fees as prescribed shall charge the fees as prescribed by competent authority.
- 6) The minority educational institution shall appoint teachers as per qualifications laid down by the authority concerned but it will be advisable for them to select teachers and other employees through employment exchange or open advertisement.
- 7) In all academic, administrative and financial matters rules and regulations laid down by respective statutory authorities from time to time shall be wholly applicable to these institutions.
- 8) The minority educational institution shall do nothing, which may come in the way of communal and social harmony.
- 9) Fifty percent of seats permitted to be filled up from minority communities shall be equally distributed between free and payment seats<sup>10</sup> There are separate rules for recognition of linguistic minority institutions the criteria being;
  - 1) Institution conducting definable and verifiable activity for promotion of minorities
  - 2) Minority language is taught as a language subject of study
  - 3) Minority language is the medium of instruction.

### **Types of Minority's In India**

We examine the relations between the minority and minorities with the help of the model, consisting of our dimensions-demography, assimilation pluralism, power relations and value systems, which we introduced earlier.

#### **1) Demographic Dimension**

In this dimension, we will examine the numerical characteristics of Indian's population in general and minorities in particular. The

absolute number of an ethnic group its degree of concentration in various regions of the country the numerical dominance or lack of it in a particular region will form part of our discussion.

Before we proceed it needs to be recalled that Articles 29 (1), 30, 350 A and 350 B of the constitution of India. Use the term 'minority' minorities without defining it in order to bring a case under Articles 29 and 30 of the constitution of India. A community has to establish its character as a linguistic, cultural or religious minority; however, the judiciary defines categorical two types of minorities Linguistic and Religious. The sociologists list of minorities included inter alia Scheduled Caste and Scheduled Tribes in what follows an attempt will be made to examine the demographic characteristics of religious, caste, tribe and linguistic minority.

### **Religious Minorities**

In India, religion is both a divisive as well as a cohesive force, it is the one important factor which cuts across all regional linguistic and cultural boundaries and differentiates the population into different communities with certain degree of homogeneity in exerts on the thought culture and behavior of the people there is hardly any social conduct which is not influenced by the sanctions of religion daily life in India religion permeates family and personal life as movement it underlines and justifies the caste system and consequently regulation interpersonal and inters group relations"<sup>11</sup>

Destiny has it that many human races and cultures and religions flowed to India and found a home in her hospitable soil, from the inception of their cultural development the people of this country have displayed a very tolerant outlook in regard to their cultural development, the people of this country have displayed a very tolerant outlook in regard to their attitude towards people professing other religions, the cordial dispositions has paved the way for other religions to take root in a congenial atmosphere with the result that today there is hardly any religions in the world which does not have its followers

in the subcontinent. Some of the religious practiced in the country, such as Christianity, Islam and their origin outside, the subcontinent; Zoroastrians is another religious, which though it has taken rooting the soil of this country has died out in the country it origin.

Among the indigenous religious, Hinduism has the largest member of followers, Buddhism and Jainism originated the sixth century B.C and had their heydays due to occasional royal patronage but they did not succeed in replied Hinduism, Buddhism claims converts in china, Sri Lanka and later in Japan. It become a dominant religion of Tribe under south East Asia, Jainism, by contrast, heaver nearer spied like Buddhism beyond the subcontinent but has survived. The expression “Minorities based on religion means that the only or the main basis of minority should be its adherence to one of the many religions and not a part or sect of the religion and other characteristics of the minority are subordinate the main feature, meanly it sedateness because of its religion”. In *A.D.E Trust Vs Director of Education (Delhi Administration)*. It was held by the High Court Delhi that word ‘religion’ in Article 30 (1) is confined to the well defined religion of India such as Hinduism, Islam, Sikhism, Christianity, Jainism etc end it does not cover a sect or a part of the religion <sup>12</sup>

The minority is any community, linguistic or religious, which is less than so present of the entire state population, since Muslim Christian, Sikh, Buddhist, Jain and other religious groups are less then so percent they are religious minorities under Article 30(1) of the constitution,

It well noted that Hinduism is the religious faith of the majority 82.6 percent of the population, but their share in the country’s total population has been shrinking on account of their growth rate being slower than the all India population growth rate since 1951 the people who profess Hinduism are primarily divided into four groups according to traditional occupational constitutes the structural bases of Hindu religion.<sup>13</sup>

Muslim constitute the second largest religious community in

India According to the 1981 census, they formed 11.4 , 1991, 12% and 2001, 13.4 percent of the total population of the country, and percent of the total population in 2001 census Islamic inflection from the twelfth century onward was for centuries the religion of the rulers of large part of India. Islam teaches faith in the one all powerful God, Allah and Mohammad, the prophet, man is powerless before Allah and must therefore submit to his will, Besides the holy book Quran the life of a Muslim is guided by the Sunna, The practices of the prophet and Hadith the sayings of the prophet, these set standards for correct behavior.

All over India the Muslims are divided into two major groups namely Sunni and Shia, on the basis of their faith in their religion. In India, the Sunni greatly preponderate but they usually share with the shias their veneration for Hasan and Hussain. The martyred sons of Ali, prophet Mohammeds son in law and strictly observe the Ramzan, the religious writings of the Sunnis consist not only Quran but also of Hadiths or traditional sayings of Mohammed not embodied in the Quran, there are four recognized commentaries and their followers are called Hanafi, Sufi, Maliki and Shafi, the differences are slight but the main characteristic of the Hanafis the most numerous in India, is that the radiations are freely interpreted in the light of analogical reasoning whereas others take their stand against any modification of the actual words of the prophet<sup>14</sup>.

The partition of India was forced on everybody concerned on the basis of the "Muslims are a separate nation" theory which was backed by a vast majority of Muslims, after the partition, most Hindus in Pakistan were driven out by communalist Pakistan, As many as 35 million Muslims remained in India (1951 census) This makes the Muslim population of India today the fourth largest in the world, after Indonesia, Bangladesh and Pakistan, more than half of the Muslims in India are concentrated in Uttar Pradesh West Bengal and Bihar, with steady infiltration from the people of Assam, in addition, conversion to Islam also increased Muslim Population."<sup>15</sup>

Muslims are not a homogeneous community, but rather horizontally and vertically divided into various regional and cultural groups as well as into classes naturally, therefore, their response to socio-economic and political problems varies according to their group interest religious regional and cultural. However Muslims tend to behave by and large as homogeneous groups in abnormal times of war, communal holocaust or certain events in other Islamic, countries or on certain question like change in Muslim personal law. Change in Muslim personal law, Despite Homogeneity there is abundance of heterogeneity among Muslims, According to Rashid Durrani "It should be evident that what is called the 'Muslim problem' has many ramifications, both in terms of levels and sectors, there are at least five levels of relevance; the local (Village\town) the district, the region and the country, at each level due to variation demographic composition difference in nature of social-political significance, etc the specificity of the situation, problem acquires a difference and newness likewise there are several vital sectors of the Muslim situation it is therefore, a ridiculous simplification to speak of Muslim problem exclusively as a monolithic all Indian problem".<sup>16</sup>

The Christians represent the third largest religious community in India, constituting 2.4 percent of the total population in 1981, 2 percent in 1991 and 2.3 percent in 2001 census. Christianity was established in India much earlier than the Portuguese set their foot on this subcontinent, the oldest Christian community in India is the Syrian church of the Malabar coast which is said to have been founded by the apostle Thomas, today nearly half the Christians in India are Catholics, while other half are members of various Protestant denominations.

The Christians in India like their Hindu brethren are not free from the thought of caste and pollution. Catholics as well as Protestants, the Syrian Christians of Kerala earliest converts to Christianity claim to have been recruited originally from the high caste Hindu like Nambudiri and Nair and caste distinctions are conspicuous among

them similarly a catholic Brahmin from megastar would marry none other than a catholic Brahmin converts to Christianity retain some of their per conversion rights, for instance, the south Indian Hindu rite by the groom to the bride is also an essential part of marriage ritual of the Syrian Christians of Kerala".<sup>17</sup> The Christian population in India is about 16 million Almost 59 percent of the Christian population in India in concentrated in Kerala, Tamil Nadu.

The fourth largest religious group in India is that of the Sikhs who constituted 2.9 percent of total of population in 1981, and in 2001 like Buddhism and Jainism, Sikhism originated as a reformatory mission to eliminate the deferent contemptible social and religious practices that had ingrained in Hinduism, it does not recognize ceremonial impurity and permits pilgrimage to the great shrines of Hinduism, as a social system, it abolishes caste distinctions and as a necessary consequence Brahmanical supremacy and usages in all ceremonies but, at the same time, they are believes in three Hindu modes of outlining union with supreme being, they also celebrate the Hindu festivals of Dewali and Holi thus, the boundaries that separate Sikhism are not sharp as ethical values of thatch the religions continue to be same. The important aspects which are distinct to Sikhism are that the followers of this religion believe implicitly in the teachings of the ten Gurus and the Guru Grantham Sahib.

The first (British) censuses of Punjab, in 1855, enumerated Sikhs and Hindu together. The former were considered too Hindusied to warrant any distinction, the Sikh Gurudwaras and shrines Bill a Sikh was not only defined as a person professing the Sikh faith but that had to be established by making declaration that 'I solemnly affirm that I am a Sikh, that I believe in the Guru Granth Shih that I believe in Ten Guru Granth Sehib that I believe in Ten Gurus and that I have no other religion.'<sup>18</sup> A typical protest from certain Sikh stated;

"Sikhism was never a religion but always a panth....a cult embracing Hindu religion though laying particular stress on devotional attachment towards Gurus.... The bill defined 'Sikh' to be

a person who professes the Sikh religion. If it had contended itself with this laconic definition, it would have been all right, but it demands much more....it ....prescribes a solemn declaration...the last wards in the declaration...clearly compel a Hindu even though otherwise qualified to renounce his religion, simply because the Bill aims at creating a separate Sikh community.”<sup>19</sup>

The fifth largest religious group in India is of the Buddhists increased somewhat due to conversion.<sup>20</sup> Buddhism originated in India in the sixth century B.C. and was developed as one of several attempts at reformation of the Hinduism of the day. The original doctrines of the Buddha constituted a protest against the authority of the Vedas, the caste system, a populace superstitions and Brahman supremacy; the Buddha taught four noble truth a) there is suffering in the world. b) This suffering has cause's) the cause is desire and d) it is possible to put an end to suffering if desire is removed, to attain nirvana of freedom from birth and rebirth and cessation of suffering, the Buddha said that, one should know the 'right way' for which he prescribed the eight fold path consisting of the Right view Right resolution, Right words, Right actions, Right living, Right effort, Right Thinking and Right concentration.

Mohavira also taught that Right Belief, Right Knowledge, and Right conduct are the means through which one can attain moksha or revelation, Jainism enjoins one to abstain from destroying any life, form stealing from lying from unchastely and from possessing property, the authority of the Vedas was denied by Mahavira who laid emphasis on good conduct and behavior and dial prescribe rituals.

The two other religions found in the country are the Zoroastrilanism and Judaism, the people who profess these religions in India are very few in number and consist of the descendents of apostles or of immigrants seeking religious in India are very few in number and consist of the descents of apostates or of immigrants seeking religious freedom.

A debate has been imitated recently about the increase in Muslim



population, Khan's two reports were published which show this to be factually incorrect, an article in a weekly exploded the myths that the Muslim population is increasing at a faster rate than the Hindu population. Another report of a more academic nature which appeared in an economic daily on January 25 analyses this theory on purely statistical grounds and finds it totally baseless. Then again Mallikni (1993) observes that Wadhiduddin Khan (1993) does not think that the Muslim population the official census reports show that in every single decade the Muslim increase was greater than that of the Hindus, to quote only the more recent of these reports, the Hindu population grew by 23.69 per cent in the 1971-81. It was 14.15 per cent for Hindus and 30.59 per cent for Muslims. And as per the 2001 census Muslim Population is 12 percent.

"A close look at trends in decadal growth of the size of the adherent of four major religious communities in India for the period 1901-81, reveals that barring decades 1901-11 and 1941-51 Muslim population have always grown faster than the Hindu population, the probable reasons for this could be many, including differential mortality conversions, differential fertility, migration and errors in data, but in the recent past, i.e. in the post independent period fertility differentials have been found to be major cause of the difference in the growth rates of different religious communities the temporary decline in population of Muslim between 1941-51 is simply due to partition of the country and the migration that followed it generally Christians and Sikhs have grown faster than Hindu and Muslim, though it is difficult to establish the contribution of each of the multiple cause of this, conversion from Hinduism to Christianity and emergence of Sikh separatism may largely be responsible for more growth rate of Christians and Sikh respectively."<sup>21</sup>

In the summary, the preceding distribution of population by religion shows that Muslims are a major religious minority in Indian constitution 11.35 per cent of Indian population according to 1981 census. All other minorities put together account for 17.36 per cent

Christians constituting 2.43 per cent, Sikh 1.96 percent, Buddhists 0.71 per cent, Jain 0.45 per cent and other religious communities 0.42 percent.

### **Caste and Tribal Minorities**

The Scheduled Castes are known as 'Harijan'-children of God a term coined by Mahatma Gandhi in 1933, the Harijan nomenclature is considered productive by some leaders of the caste they prior to be called Dalit i.e. . . . the oppressed, occupying the lowest rank in the Hindu caste system, they are also known as Panchama, Ati-shudhra, Nama-Shudra in different part of country several term a Exterior castes, Out-castes, Depressed Classes, Scheduled Caste, Harijan, Ex-Untouchable have been used by the caste officials or social reformers to refer to this category there touch and sometimes their shadows and ever their voices are believed to pollute caste. Hindus legally they are no longer untouchables though in practice many of them still bear that stigma.

The Scheduled Caste constitutes 15.8 per cent of India's population. According to the 1981 census, they number 1048 lakh. The SC's are scattered all over the country though their number is insignificant in the predominantly tribal states of the North-East frontier, there are not concentrate in very large numbers in particular district or taluka either.

The Scheduled Tribes are known as Tribe, Adivasi, Aborigines or autochthonous, Gandhi called them 'Grijians' the term 'Tribe' has not been examined rigorously by social scientist in Indian context. They have largely followed government categorization." Article 366 (25) of the constitution of India has defined Scheduled Tribes as 'such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purpose of this constitution' by the constitution (Scheduled Tribes) order, 1950 issued by the president in exercise of the power conferred by clause 91) of the Article 342 of the constitution of India 212 tribes have been declared to be Scheduled

Tribes latter, by an act of Parliament some other groups were also included in the 'Schedule' Tribal are ethnic groups. Different tribes have their own cultures dialects, life-styles social structure; rituals values etc differing somewhat from those of the dominant non-tribal peasant group. At the same time, most of them are settled agriculturists and social different ion have developed among them. Because of the concentration of tribes in certain areas, their social and political organization and relative isolation from the 'mainstream 'their leadership pattern and modus operate of political mobilization may differ from those of other peasants.

“The Scheduled Tribes can be divided into two categories frontier tribe and non forties tribes, the frontier tribes are inhabitant of the north-east frontier states, Arunachal Pradesh, Assam, Meghlaya, Manipur, Mizoram, Nagaland, and Tripura” except Assam”<sup>22</sup> all the other sate are land-locked between Assam and India’s neighbors Burma, china and Bangladesh, they therefore, occupy a special position in sphere of National Political, they constitute 11 per cent of the table population the non-frontier tribes constituting 89 per cent of the total population the non-frontier tribes, constitution 89 per cent of the total population are distributed among most of states though they are concentrated in large number in Madhya Pradesh (23 percent), Orissa (22 per cent ), Rajasthan (12 per cent ), Bihar 98 per cent), Gujarat(14 per cent ), Dadra Nagar Haveli (94 per cent), in 1981 census, 516 lakh persons were classified as Scheduled tribes. The Scheduled Cates (15.8 per cent) and Scheduled Tribes (7.8 per cent) together constituted 23.6 per cent of total population in the country in 1981.<sup>23</sup>

#### **Dr. Ambedkar’s Arguments**

When the constituent assembly for framing of the future constitution in India. Dr. Ambedkar prepared a memorandum of All –India Scheduled Caste federation he explained in the memorandum, “the Dalits are a minority because their social, economic and

educational condition is worse than that of the citizen and other minorities in India. He argues that the Dalits should special sagere guards against the discrimination of the majority. He said that, the state that the Scheduled Castes are not a minority is to misunderstand the meaning of the term minority. Separation in religion alone is not the only criteria of the minority. Social discrimination constitutes the real test for determining whether social group is or not a minority.”<sup>24</sup> He elaborates those dominant Hindu religious groups as against the minority religious groups. And there are internal struggle based on caste considerations amongst the Hindus.

#### **Linguistic Minorities**

Language in Independent India has come to be accepted as a legitimate basis of the states formation. After independence, many of Indian state were organized along linguistic lines. As a result, almost every major state has what may be called a ‘home language’ of which it is home state succeeded in bringing together in state (or states) the speakers of the major languages, although language has been accepted as a legitimate basis of the state formation within the framework of the nation-state the manner in which language is defined and distinguished from dialects is problematic”.<sup>25</sup>

It need be remembered that the linguistic basis of state reorganization was in turn, founded on ‘linguism’ and ‘linguism’ defines Munshi <sup>26</sup> ‘is a group sentiment based on the affinity of language seeking expression in term of power politics. It identifies language with culture and equates culture with politics. It identifies language with culture with political frontiers of a region, in essence it is not a cultural force for the boundaries of culture are never confined to any single language group, nor in reality has it any inherent relation to political end, it is form of intolerant aggressive nationalism.’ According to the 38<sup>th</sup> report of National Commission of linguistic Minority (NCLM) “In each state there is a language which is spoken by the majority of the resident of the state. All others who do not speak

that language belong to linguistic minority". According to Kerala education Case referred earlier minority has to be defined on the basis of state. Considering this fact Bengali, Punjabi, Malayam, Sindhi, Tamil, Telgu, and Marathi are linguistic minority in the union territory of Delhi.

Mookerji Rahda Kamal mentioned that, "India is several different languages are used, there are in India..." no less than fourteen separate peoples or nationalist with their own languages and literature no less than 150 different tongues producing varies languages.<sup>27</sup> According to crust<sup>28</sup> there are" no less than 539 languages and dialects, cultivated and uncultivated in the whole of India and its bordering regions" As per 1971 census. India has over 1000 language and mother tongues. 15 languages recognized presumably as the principal or possible official state languages are recorded in the English schedule of the constitution of India. Theses fifteen languages are Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjab, Sanskrit, Sindhi, Tamil, Telegu and Urdu. These languages chosen for political and cultural reasons are not necessarily those with the largest number of speaker the mention of Sanskrit is obviously for sentimental cum-cultural emphases and has little operational significance Sindhi, which was forced out of its former homeland of send at the time of partition of India and which has now no distinct contiguous territorial basis of its own in India.

According to the 1971 census, the schedule VIII languages and mother tongs falling under them covered 95.37 per cent of the total, population in India. Another set of 16 languages and mothertongus grouped under them each having more than 10,000 speakers, account for the most of the remaining population, these language and mothertonges number 106, the remaining mother tongues which have few speaker each, make up the total population excluding Assam where census was not taken Hindi is peaking by around 40 per cent of Indian population, there were 12 additional languages which claimed more than 500,000 native speaker each which a further 16

had more than 100,000 native speakers each.

The Indian languages of today have evolved from different language families corresponding more or less to the different ethnic elements that have come into India from the dawn of History; these languages have interacted on one another through the centuries and produced the major linguistic divisions of India.

Today, the Indo-Aryan, the biggest of the language group in India accounting for 74 per cent of the entire Indian population is the India branch of Indo-European family which was brought into the subcontinent by ancient invaders, the Aryans and is spoken in the north India the important languages in this group are Panjab, Sindhi, Hindi, Bihari, Rajasthanai Gujarati, Marathi, Assamese, Bengali, Oriya, Pahari, Kashmiri and Sanskrit, the Dravidian family which came into India centuries before the Indo-Aryan is the second language group covering about 24 per cent of the total Indian population, the Dravidian family language still predominate the south India, the outstanding language of this group include, Telugu, Tamil Kannad and Malayalam, it is obvious, then that the language spoken by 98 per cent of the population belonging to two great families viz , Indo-Aryan and Dravidian.

Along the mountainous of the sub-continent and in hilly enclaves in its central portion are small minorities composed of the Sino-Tibeto, Burmese family related to Chinese and Burmese and Hysteric or Austro related to them spoken by tribal in Bihar, Chota Nagpur, Orissa and Madhya Pradesh.

Although the overwhelming majority of Indian dialects are traceable to the above mentioned families, there are a number of spoken languages in India which dialects are traceable to the above mentioned families, there are number of spoken languages in India which show no affinity to any of these major groups.

In 1971 of the 15 languages recognized by the Indian constitution 'Hindi' is the one spoken by the largest proportion (38.0 per cent) of the population while Bengali and Telugu come next in importance

with each of these languages being speaking the other language included in the English Schedule are Marathi (7.7 per cent), Tamil (6.9 per cent), Urdu (5.2 per cent), Gujarati (4.7 per cent), Malayalam (4.0 per cent), Kannada (4.0 per cent), Oriya (3.6 per cent), Panjabi(3.0 per cent), Assamese(1.6 per cent), and Kasmiri(0.5 per cent), though Sanskrit is one of the language including in the list of recognized languages it is no longer a spoken language; only 2.212 person have returned Sanskrit as their mother tongue at the 1971 census no languages belonging to the Austric and Sino-Tibetan families have been included in the list of recognized languages as the speakers of these languages are numerically small.

An interesting demographic feature in India is concentration of the different linguistic group in specific states, in fact after independent, the linguistic states were created with a view to providing opportunities for the people speaking the same language to develop their own culture and language according to their own desire, the distribution of the speakers of the languages specified in schedule VIII except Sanskrit.

In view of the polygon character of Indian society the constitution recognized the concept of linguistic minorities, but the constitution is silent about the definition of the term and hence the judiciary has to define it for purposes of Article 30 (1) of the constitution, in the wisdom of the Supreme Court (AIR 1971,S.C 1987), the meaning of a linguistic minority for the purposed of Article 30 (1) is as follows;

“A linguistic minority for the purpose of Article 30 (1) is one which must at least have a separate spoken language, it is not necessary that the language should also have distinct script for these for those who speak it to be a linguistic minority there are in this country some languages which have no script of their own but nonetheless those sections of the people who speak that language will be linguistic minority entitle to the protection of Article30 (1).”Hindi has five home state and one Union territory unlike the rest of the schedule VIII language which have one each, they are Utter Pradesh,

Bihar Madhya Pradesh, Haryana, and Himachal Pradesh, and the Union territory of Delhi they together cover 94.2 (92.7) per cent of Hindi Speaking population.

If we further look at linguistic geographical mapping on the basis of 1971 and 1981 census, the picture stands like this Kashmir is the principal language of Jammu and Kashmir, Punjabi of Punjab, Assamese of Assam, Bangali of West Bengal, Oriya of Orissa, Gujarati of Gujarat, Marathi of Maharashtra, Kannada of Karnataka, Tamil of Tamil Nadu, Telugu of Andhra Pradesh and Malayalam of Kerala

The situation of Sindhi and Urdu is however, different, they have no contiguous territory which can be called the home states, for instance, the Sindhu speaking population of 16.77 lakhs is mainly spread over Gujarat (6.98), Maharashtra (4.32), Madhya Pradesh (2.40 lakhs), making up 90.76 per cent of the Sindhi speaking population in India. One can see the partition migration affecting the geographic distribution pattern of Sindhis.

In case of Urdu with 286.21 lakh speakers and more than 5 per cent of the total Indian population the major concentration is even more widely dispersed Uttar Pradesh (92.73), Bihar (49.93 lakhs), Maharashtra (36.62 lakhs), Andhra Pradesh (33.00 lakhs), Karnataka (26.37 lakhs), Madhya Pradesh (10.01 lakhs), West Bengal (5.82 lakhs), Here also one can witness the direct impact of partition (in the reverse) together with the historical situation.

Let us now consider linguistic minorities, the minority language groups substantial numbers of speakers of Bengali, Kannada, Punjabi and Telugu are spread outside their home state for instance Punjabi speakers are to be found in significant proportion in Jammu and Kashmir, Haryana Himachal Pradesh and Delhi respectively similarly Bangali are to be found in substantial numbers in Assam, Bihar and Orissa, Gujaratis in Maharashtra; Marathas in M.P and Karnataka; Oriya in West Bengal and Assam; Telegus in Orissa. Maharashtra, Karnataka and Tamil Nadu; and Malayalis in Karnataka and Tamil Nadu, and Malayalis in Karnataka and Tamil



Nadu Thus there are sizeable minority language group belonging to schedule VIII languages in almost all the 17 largest states many of them live in border areas between the concerned states and in lire cities, this reflects the influences of the old historic migration due mainly to political factors, the newer migrations after the country's industrialization and urbanization during the pre and post independence periods and residual effects of the linguistic organization of states.

Besides, or so speak above these languages, there are two other important minority language groups the Hindi and Urdu speakers Hindi speakers are in sizeable numbers in Jammu and Kashmir and Punjab to lesser extent in the west Bangale, Assam, Maharashtra and to still lesser extent Andhra Pradesh and to still lesser extent in Andhra Pradesh, Orison, Gujarat and Karnataka, In other two southern states they are negligible, Urdu speaking population is to be found in the wider Hindi belt except Punjabi and Himachal Parades and Maharashtra and to lesser exit net in West Bengal, Orissa, Gujarat and Tamilnadu, they are negligible in Assam and Kerala, it reason is partition Sindhi speakers are dispersed.

Ethno-lingual changes in population group are subject to socio culture and politico-economic development of the region, there appear to be emerging two contradictory processes on attempts are made to seek affinity and affiliation to a larger or more powerful group.

In the period immediately before independence, there main variants of 'Hindu' (apart from other numerous regional variants came to the fore; Hindu, Urdu and Hindustani, the last due to powerful plea of Gandhi for adopting a common national language identity has not crystallized.

There is anachronism in the definition of linguistic minority also. To put it simply, if five Maharastrians get together and start Marathi medium school in Mumbai it will not be treated as a minority institution, but if five Gujarat's get together and start a Marathi medium school in Mumbai it will be treated as a minority school

“Another issue in the linguistic process of consolidation and assimilation is the case of languages which are not included in the schedule VIII languages, take Konkani and Santali for instance, finally comes the question of a language of all India inter-communication, there are three languages Hindi, Urdu and English, Hindi and Urdu seem to have an edge over English. Knowing sections outweigh the Hindi and Urdu knowing sections in West Bengal, Kerala and Tamil Nadu, so there is more opposition to Hindi in these states and demand is made for the continuation of English as a language for all India inter-linguistic communication or contact language. Hindi belongs to the upper state of society.”<sup>29</sup>

#### **Special Court Cases of Minority**

The many cases have been decided in the civil, high and Supreme courts but in these cases the court has not talked about the meaning and criteria of minority but many times they talk about the right of the minority when we think about the definition of minority. The Indian Constitution has not defined the word ‘minority’. The word ‘minority’ implies a group of persons numerically smaller than others. The Encyclopedia Britannica explains minorities as “a culturally, ethnically, or racially distinct group that coexists with but is subordinate to a more dominant group. As the term is used in the social sciences, this subordinancy is the chief defining characteristic of a minority group. As such, minority status does not necessarily correlate to population.”<sup>30</sup>

The sensitivity for minority rights is a major part of the adoption and establishment of democracy in India. In fact, the Constitution of India accords not only sufficient safeguards to minority but also deals with the subject matter in minute details than found in any other Constitution. The minority safeguards are entrenched in the Constitution, most of which are fundamental and permanent. The Judiciary in India has been given special responsibility to protect the minority rights. India is a secular state which is impartial towards all

religions. It is in the interest of minorities of any form itself that it stands committed to democratic and secular values.

The Judiciary has shown sensitivity towards protecting the rights of minorities as mentioned in the Constitution. Chief Justice, S.R. Das in Kerala Education Bill exhibits sacred commitment for the minority rights when he says, "So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this court to uphold the fundamental duty of this court to uphold the fundamental rights and thereby honor the sacred obligation to the minority communities who are our own."

The Supreme Court of India has played an active role in providing constitutional protection to the minority communities. When the linguistic and religious minorities had failed to get protection through the political process, they have resorted to legal process and the Court come to their aid. For this the Court has maintained that, "in order to treat some persons equally, we have to recognize a fair degree of discrimination in favor of minorities."

The Constitution of India specifically recognizes religious minorities, linguistic minorities, possession special script of their own, untouchables, socially and educationally backward classes, Scheduled Castes and Scheduled Tribes.

The Constitution of India recognizes eighteen major languages spoken by majority of the people and hundreds of other languages and dialects which are spoken by the people in the rural areas. A major demand of the linguistic minorities has been of the inclusion of their language in the eighth schedule of the Constitution.

The Judiciary has defined that if constitution in any community which is numerically less than 50 per cent of the population is considered as 'minority group'. Based upon this definition, the Government of India has declared five religious groups as national minorities which are Muslims, Christians, Sikh, Buddhists and Parsis.

**Summary**

In short, we can say that, plural societies throughout the globe. Some people are set a part for a variety of reason such as physical feature, Skin, colors, language, sex religions, physical handicap and behavior pattern. They physical and cultural characteristics provide high social visibility and server as identifying symbols of group membership based on these features individuals are ascribed in the social structure the groups to which they belong the group so identified are prevented from participating equal and fully in many dominant group in society all these are minorities.

The sociological have referred to minority group of distinctive national and cultural characteristics, emphasized subjective element of national consciousness which might characterize minorities not distinguished from the rest of the population by obvious feature of languages, dress, habits or physique subordinate of the minority to the dominant group of a society is most important future of minority. It is a distinct social group with specific rule of membership and distinct cultural behavior that distinguish it from the majority; the minority is differentiated from others in the same society by race national religion or language.

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