

Constitutional Protection of Minorities in India: A Critical Study

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Abstract: *India has a shameful past and present marked by several violent and communal conflicts. Individuals who identify as part of a national, ethnic, religious, or linguistic minority have heightened vulnerability to discrimination in many forms, including but not limited to inadequate housing, land and property, and even nationality. The framers of the Indian Constitution were very careful to provide certain rights and benefits to the country's minority groups. During India's liberation movement, ideological convictions to guarantee, defend, and safeguard the rights of minorities evolved, leading to the granting of such rights. The 1928 Nehru report, a paper describing a planned new dominion status and future of India's constitution, was a clear manifestation of this determination. In India's Constituent Assembly, the question of minority rights was front and centre. Minority status was awarded to religious and linguistic groups throughout this procedure. The Supreme Court stepped in to protect minority interests because minorities saw their privileged status was not immune to legal scrutiny. In order to defend and promote the interests of minority groups, this research study seeks to comprehend the scope of the word "minority" and to shed light on the several sections of the Indian constitution that deal with minority rights and policies. Moreover, it examines a number of commissions and programmes launched by the Indian government.*

Keywords: Minority, Rights, Indian Constitution, Ethnic Community, Commissions

1. Introduction

The postcolonial administration of India has been held in high regard as an example of effective governance in the decades after independence. Surely the biggest democracy in the world, where religious tolerance, freedom of speech, and the concept of secularism are deeply ingrained values held by all citizens. Despite warning signals of sectarian violence, it has escaped the kind of military dictatorships that beset many of its former colonies and maintained its position as the world's largest democracy. But several works of divergent scholarship argue that "the guarantee of national liberation was satisfied, if not deceitfully, at that point surely by the persuasive minimization of numerous who should have partaken in the products of freedom." To see how the exclusionary policies have persisted, one may look at the unique "cultural problem" of India's religious minority. By declaring that all citizens, irrespective of their religious affiliation, are entitled to equal protection under the law, the creators of India's constitution rejected Huntington's "clash of civilizations" argument, which had served as the foundation for India's partition. Nevertheless, despite these claims of dedication to equality and a welcoming society, we have seen the new nation state's dominant religious groups engage in hegemonic paternalism. These groups characterised their practices and traditions as separate from both Western values and the ideologies of the oppressed populations it had pledged to liberate. 'Fundamentalist movements' and intense communal sentiments within each group followed, along with sectarian identities that experienced mutual estrangement. Controversies and tensions have broken out between minority and majority populations in several regions of the nation due to recent political chaos. This has led to the topic of minority group rights and identity protection being front and centre in India's political discourse.

In light of this, this research will analyse the minority protections guaranteed by the Indian constitution. Both the

Indian constitution and international human rights norms recognise the need of affirmative action, sometimes known as positive discrimination, in promoting the well-being and advancement of minority groups. Simultaneously, it outlaws discrimination of any type; nonetheless, the ruling class has used these safeguards for personal benefit. In their defence, fundamentalists have used the same minority protection measures, arguing that minorities are just as much citizens as anybody else and, as such, deserve the same respect and protections afforded to all citizens. Consequently, study would go beyond the provided constitutional framework to investigate the role of these rights in addressing the contentious issue of "minority problems" in India.

Who is Minority

The term "minority" is widely used in many fields and academic circles. The term "minority" is elusive and difficult to pin down. Maybe this is why there isn't a single, agreed-upon definition of minority. There have been fruitless efforts to experimentally and objectively identify and characterise minority groups on both the national and international levels. Opposite the majority is the smaller group or component, particularly one that is less than half of the total, according to the Oxford English Dictionary's definition of a minority. A minority group is defined by Capotorti as a subset of a state's population that is numerically smaller than the majority but is still not dominating. Its members are legal residents of the country but linguistically, culturally, or ethnically distinct from the majority. However, in an attempt to hold on to their language, customs, religion, and culture, they show some level of unity with the majority.¹

Minorities in India have unique fundamental rights guaranteed by the country's constitution, which went into force almost 70 years ago. A definition of "minority" is elusive under the Constitution. Yet, when read in conjunction

¹Capotorti's definition about minorities in his article 'minorities in 1985.

with Article 30, it becomes clear that the word mainly pertains to linguistic and religious minorities. The federal government was given wide latitude to decide what counts as a minority.

Therefore, it is critical to comprehend the following rulings in order to comprehend the timeline of those who might be deemed a minority.

In *Re: The Kerala Education Bill*², The issue of whether the Kerala Education Bill infringes against any provision of Article 30(1) of the Constitution arose. Concerning the matter of "What is Minority?", the nation's top court deliberated and ultimately reached a decision. The Supreme Court challenged the numerical standard by asking whether a religious or linguistic group claiming minority status had a population that was less than 50% of the state's overall population.

Only very lately has the state begun to recognise the Jain community as a distinct religious group deserving of minority status. Nevertheless, the minority status of Jains has frequently been considered by the Supreme Court in its verdicts.

The case of *D.A.V. College Etc v. State of Punjab &Ors.*, which was decided later that year (1971)³, In Punjab, Hinduism was considered a minority religion, and the court ruled that "Religious or linguistic minorities are to be determined only in relation to the particular legislation which is sought to be impugned; if it is State Legislature these minorities have to be determined in relation to the population of the State."

The purpose of establishing the Minorities Commission was to protect them from harm in 1978. This Commission was rechristened the "National Commission for Minorities" and established by the National Commission for Minorities Act, 1992 when it transformed into an official institution. The government of India designated five religious communities as minority groups in India under Section 2(C) of this Act. These communities include Muslims, Christians, Sikhs, Buddhists, and Zoroastrians (Parsis). The notification was released on October 23, 1993. It was also recognised in the Sixth Plan (1980–1985) that minorities constituted a distinct socioeconomic category, and hence, the Minimum Needs Programme was established to cater specifically to their needs.⁴

Judgement in the seminal case of *T.M.A. Pai Foundation &Ors v. State of Karnataka &Ors*⁵In deciding whether Article 30 applies, the Eleven Judges Bench of the Supreme Court stated that a minority may only be decided with regard to a state and not the entire country's population. Also, "scheduled castes" and "scheduled tribes" need to be established at the state/UT level. Since Article 30 guarantees religious and

linguistic minorities equal status, it is crucial that nations respect these rights."

"The essence of Article 30(1) is to ensure equal treatment between the majority and the minority institutions," the Supreme Court says, adding its stamp of approval to the idea that no one should be subject to reverse discrimination. It is unacceptable to show preferential treatment to or discrimination against any particular type or category of institution. Both the majority and minority institutions are subject to the same laws, regulations, and policies."

Rights of Minorities: Contextual Framework

One common argument made by those who disagree with India's nationalist model and how it relates to diverse societies is that the idea of India's nation-state originated in European nationalism.⁶ European nations are extremely intolerant of variety since their founding principles prioritised uniformity and the formation of strong, homogeneous national groups. Postcolonial scholars contend that India followed a similar trajectory, meaning that minority identities and ambitions have never had a chance to thrive inside the concept of country, which has always been based on the hopes of homogeneous groups⁷. The 'participatory parity' that was promised to every individual and group comprising India's whole population was never realised due to the fractured and sectarian nature of Indian politics. The national identity became a representation of the Hindu majoritarian identity, which prevented resources from being distributed equitably and denied culturally diverse social groups their rightful respect. These communities were caught in a catch-22: they were cut off from nationalism but also unable to leave the confines of the nation-state. Because of this, a number of micro-identities were able to flourish there.⁸ Although they were citizens of India, several communities and groups were pushed to the outside of contemporary Indian society, where they were either totally disregarded or treated with the utmost subordination. This was a clear outcome of the political upheavals that occurred throughout the country."

This dual function of the independence movement in regard to the rise of community and regional consciousness is clear. However, in rallying against British rule, it appears to have quelled the desire of the various locations' residents to form unique ethnicities by fostering a greater feeling of Indian motherhood. The apparent conflict between communities that advocated the slogan "India—a United Nation" and the British rulers who highlighted the multiplicity of castes, communities, tribes, and language groups was largely driven by the fact that various linguistic and cultural groups were being brought together into distinct ethnic and communal

²re, Kerala Education Bill, AIR 1958 SC 956; 1959 SCR 995.

³DAV College v. the State of Punjab, AIR 1971 SC 1731; (1971) 2 SCC 261.

⁴Massey J., Minorities and Religious Freedom in a Democracy, Centre for Dalit Subaltern Studies (Manohar, 2003).

⁵TMA Pai Foundation v. State of Kerala, AIR 2003 SC 355; 2002 (8) SCALE 1.

⁶ See, Menon, N., & Menon, N. (2010). Introduction. In Chatterjee P. (Author), *Empire and Nation: Selected Essays* (pp. 1-20). Columbia University Press. Retrieved from <http://www.jstor.org/stable/10.7312/chat15220.4>

⁷ Nirja Gopal Jayal (1993), 'Ethnic Diversity and the Nation-State', *Journal of Applied Philosophy*, vol.10, no.2, pp. 147-53, at p.147

⁸ G. Aloysius, *Dalit-Subaltern Self-Identifications: Iyothee Thassar & Thamizhan* (Critical Quest, New Delhi, 2010)

groups while India was striving for national unity against the British.⁹

Members of the Constituent Assembly acknowledged this reality and placed a focus on accommodating plurality; yet, this was a contentious issue. Dr. B.R. Ambedkar came out and said it plainly in the Constituent Assembly:¹⁰

To diehards who have developed a kind of fanaticism against minority protection I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the state. The history of Europe bears ample of appalling testimony to this fact. The other is that the minorities in India have placed their existence in the hands of the majority. In the history of negotiations for preventing the partition of Ireland, Redmond said to Carson "ask for any safeguard you like for the Protestant minority but let us have a United Ireland". Carson's reply was "Damn your safeguards, we don't want to be ruled by you." No minority in India has taken this stand. They have loyally accepted the rule of majority and not political majority. It is for majority to realise its duty not to discriminate against minorities. Whether the minorities will continue or vanish must depend upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish.

In this excerpt from Dr. Ambedkar's lecture, the nationalist goal of creating a "nation-state" by means of constitutional agreement is emphasised once again, especially in cases where there is no inherent cultural harmony among the populace.¹¹

Constitutional Safeguards of Minorities

The Constitution provides two sets of rights to minorities which can be placed in 'common domain' and 'separate domain'. The rights which fall in the 'common domain' are those which are applicable to all the citizens of India. The rights which fall in the 'separate domain' are those which are applicable to the minorities only and these are reserved to protect their identity. The distinction between 'common domain' and 'separate domain' and their combination have been well kept and protected in the Constitution. It is a great blessing that we all reside in a country where the "common domain" rights are available to everybody. In order to ensure that minority groups may maintain their own cultural identities, the concept of "separate domain" is used. Therefore, religious minorities in India have three rights guaranteed to them by the constitution: (i) the right to practice one's religion in an environment run and supported by other minorities; (ii) the right to control and direct organizations

⁹ Narang, A.S., Ethno- Nationalism and Minorities in Akhtar Majeed (eds.), India in Nation and Minorities: India's Plural Society and Its Constituents (Centre for Federal Studies, Hamdard University, New Delhi, 2002) pp.68

¹⁰ Ibid.

¹¹ See, Dilip Simeon, Book Review. **Shabnum Tejani**, *Indian Secularism: A Social and Intellectual History, 1890-1950*. Bloomington: Indiana University Press.

run by other minorities; and (iii) the right to preserve one's native language and culture.

Part III of the Indian Constitution deals with Fundamental Rights, whereas Part IV deals with Directive Principles of State Policy (DPSP). These two parts of the constitution address the so-called "common domain" of constitutional rights. Economic and social security are fundamental rights guaranteed by the DPSP. Though not obligatory on the state, these rights are "essential in the governance of the country and it shall be the duty of the State to apply these principles in making laws" (Article 37 of the Indian Constitution), which means that they should be respected. Here are some aspects of the DPSP that could affect our country's minority populations in a big way:

- 1) State duty "to endeavour to eliminate inequalities in status, facilities and opportunities" among geographically dispersed or occupationally diverse populations.¹²
- 2) The state has a responsibility to prioritise the economic and educational well-being of "the weaker sections of the people" (apart from Scheduled Castes and Schedule Tribes).¹³

Part IV A of the Indian Constitution, which deals with the Fundamental Duties, applies to all citizens, including those belonging to minority groups. The following provisions apply to the Minorities under Article 51A, which is particularly relevant to them:

- 1) For all Indians, "beyond religious, linguistic and regional or sectional diversities; and" promoting brotherhood and togetherness among the country's numerous distinct populations is an essential human duty.
- 2) We must do our part as citizens to preserve and celebrate the rich tapestry of cultural practices that constitute our country.

In Part III of the Indian Constitution, which deals with the Fundamental Rights, the concepts of rights that are seen as belonging to the "common domain" and those that are seen as belonging to the "separate domain" are provided. In the "public sphere," minority communities in India are guaranteed the following fundamental freedoms and rights¹⁴:

- 1) The guarantee of "equal protection of the laws" and "equality before the law" to all citizens.¹⁴
- 2) Banning of racial, ethnic, sexual orientation, and gender-based discrimination.¹⁵
- 3) The power of the state to ensure that "any socially and educationally backward classes of citizens" (apart from the Scheduled Castes and Scheduled Tribes) have the opportunity to advance.¹⁶
- 4) Citizens are guaranteed "equality of opportunity" in employment and nominations to public offices which prohibits discrimination in this area based on religion, race, caste, sex, or place of birth.¹⁷
- 5) Article 16(4) grants the state the power to "make provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the

¹² Article 38(2)

¹³ Article 46

¹⁴ Article 14

¹⁵ Article 15 (1) and (2)

¹⁶ Article 15(4)

¹⁷ Article 16(1) and (2)

opinion of the State, is not adequately represented in the services under the State.

- 6) People are entitled to freely profess, practice, and disseminate their religion, provided that it does not violate public order, morality, or any other Fundamental Right.¹⁸
- 7) Within the limits of public health and morality, every religious group or denomination has the right to establish and administer charitable and religious organisations, own and acquire personal and real property and manage it "in accordance with law", and conduct its own religious and political activities.¹⁹
- 8) It is forbidden to use taxation as a means to promote any religion in particular.²⁰
- 9) Freedom as to attendance at religious instruction or religious worship in educational institutions" that the state fully recognises, aids, or maintains.²¹

Under the umbrella of the "separate domain," the Constitution protects the following minority rights:

- 1) Freedom of "any segment of the population" to "preserve" its "unique script, language, or culture".²²
- 2) Forbidden: "on grounds only of religion, race, caste, language or any of them" from excluding any citizen from state-run or -aided educational institutions.²³
- 3) The freedom to form and control schools that reflect a group's religious or linguistic identity.²⁴
- 4) Nondiscrimination in the allocation of state funds to schools run by members of protected minority groups.²⁵
- 5) Specific rules pertaining to a minority language of a state.²⁶
- 6) Guaranteeing access to mother-tongue education beginning in elementary school.²⁷
- 7) Establishment and responsibilities of a Special Officer for Language Minorities.²⁸
- 8) The right of the Sikh community to "wear and carry kirpans".²⁹

There is an increasing need for each country's Five Year Plans to address the distinct requirements of minority populations, and Indian lawmakers have begun to acknowledge that minority groups in the nation have distinct and diverse difficulties. This has covered a few of these projects.

Minority Commission:

The "Minorities Commission" was set up by the Indian government in January 1978 to protect the rights of minority communities in India. This Commission altered its name to reflect its new status as a statutory organisation and was codified by the National Commission for Minorities Act,

1992. On October 23, 1993, the Indian government issued a notification under Section 2(C) of this Act designating five religious communities—the Zoroastrians (Parsis), Muslims, Christians, Sikhs, and Buddhists—as minority groups in the nation. Likewise, the Sixth Plan (1980–1985) acknowledged minority groups as a separate socioeconomic category, leading to the establishment of special provisions for them under the Minimum Needs Programme.³⁰

The Sachar Committee:

The 2005 assessment of Muslims' social, economic, and educational status in India was carried out by a High Level Committee appointed by the Prime Minister. This happened because there were not enough reliable sources on this subject. In 2006, the Sachar Committee was formed and by year's end, it had produced a comprehensive report that had drawn attention to the disproportionately poor socioeconomic status of Muslims in India. In the Eleventh Five Year Plan, the Union government redoubled its efforts to address Muslim-specific concerns of inequality, poverty, and exclusion in light of these disturbing results. Strategies that contributed to this goal included minority institution creation, area development initiatives, better access to public services, and economic and educational empowerment. The PMO detailed the committee's duties, which included collecting data from different state and federal agencies and conducting a comprehensive literature search for national, regional, and local studies, reports, and statistics regarding the social, economic, and educational status of Muslims in India.

Muslims in India are described in depth in the report of the Sachar committee, which covers their cultural, social, and economic situations. The following are part of it:

- There is a 25% dropout rate among Muslim students in the 6–14 age range;
- In elite universities, Muslims make up less than 1% of the student body at the undergraduate and 5% of the graduate levels;
- Among Muslim women, the proportion of workforce engagement is a dismal 25%. Muslim women in rural regions make up 29% of the workforce, whereas Hindu women make up 70%;
- While 55% of Hindus work for someone else, 61% of Muslims do it themselves. Muslim women, in contrast to Hindu women, are more likely to be self-employed (73%);
- While 49% of Hindu upper caste workers, 36% of those from other ethnic backgrounds, and 40% of people from SC/ST are regularly employed, just around 27% of Muslims in metropolitan areas are;
- A smaller percentage of Muslims (less than 24%) than normal SC/ST workers (39%), Hindu upper caste workers (37%), and OBC workers (30%) work for the government or in the public sector;
- Compared to the national norm of fewer than 8%, 12% of Muslim male labourers are involved in street selling, particularly without a fixed site; and
- Just 4% of the military personnel identify as Muslims. A higher number of Muslims work as regular employees without a formal contract (73% vs. 52% for Hindu upper caste and 63% for Hindu-OBCs and SCs/STs) and without

¹⁸ Article 25(1)

¹⁹ Article 26

²⁰ Article 27

²¹ Article 28

²² Article 29(1)

²³ Article 29(2)

²⁴ Article 30(1)

²⁵ Article 30(2)

²⁶ Article 347

²⁷ Article 350A

²⁸ Article 350B

²⁹ Article 25

³⁰Massey J., Minorities and Religious Freedom in a Democracy, Centre for Dalit Subalter Studies (Manohar, 2003)

social security benefits (71% vs. 55%). A similar percentage of Muslims work as casual employees.

The Sachar Committee report provided the government with several recommendations to alleviate the economic and social hardships faced by Muslims. The suggestions served as the basis for the development of several government projects and schemes, as well as the identification of potential intervention areas.

Rangnath Mishra commission on minorities:

The Justice Ranganath Mishra Commission was established in October 2004 by the Centre for Religious and Linguistic Minorities, Government of India, to do research on religious and linguistic minorities. The Commission has put up a number of ideas, one of which is a government job quota for Muslims, Scheduled Castes, and Other Backward Classes. The minister of minorities, Salman Khurshid, delivered the findings of the Rangnath Mishra Commission to the Lok Sabha. The Commission reported its conclusions to the US government in May 2007. Its main recommendations are of:

- The National Commission for Minority Educational Institutions Act, 2004 established the Commission for Minority Educational Institutions; but, in order for it to fulfil its mandate, it has to be expanded. It went on to say that it should keep an eye on things to make sure that minorities' rights to education are protected everywhere;
- In order to monitor the distribution of loans to marginalised communities, the Reserve Bank of India should preside over the formation of a countrywide Coordination Committee. All financial institutions, including nationalised banks, should have representatives on this body;
- The goal is to abolish the Scheduled Caste Order of 1950, which "still excludes Muslims, Christians, from the SC net," and to separate religious affiliation with Scheduled Caste (SC) status;
- In all levels and cadres of the federal government, ten percent of positions should be set aside for Muslims and five percent for other minorities;
- Minorities should be allocated fifteen percent of all positions at all levels and cadres held by the federal government;
- A 5% Muslim quota and a 10% non-Muslim quota are included in all government aid programmes, including the PM RozgarYojana, the GrameenRozgarYojana, and the National Rural Employment Guarantee Act (Scheme).
- The National Commission on Minorities (NCM), the State Minorities Commission (SMC), and any other federal or state institutions concerned with minority issues will have its national and regional hubs in the newly formed Minority Welfare Committees that will be appointed in each district of the nation.

The Prime Minister's 15 Point Programme:

A big stride towards minority welfare was the June 2006 acceptance of the Prime Minister's 15 Point Programme by this Ministry. This generates individualised program-specific interventions with clear goals and deadlines. Encouraging minority communities, who have often been neglected by government aid programmes, to actually access such benefits is a key component of this program's objective. For the sake of equitable distribution of benefits, this programme assumes

that a certain number of development projects will be situated in areas with a high population of minorities. Additionally, it should be prioritised to allocate 15% of all programmes goals and funds to minorities wherever possible.

Plans that can be allocated specifically from the 15 Point Programme include:

- Centres for Anganwadi (Ministry of Women and Child Development) to administer the ICDS Scheme's services;
- Swachh Bharat Abhiyan (SSA);
- Government of India's Kasturba Gandhi BalikaVidyalaya Scheme (KGBV) for Secondary Education;
- Aajeevika, whose works for the Ministry of Rural Development
- SwarnajayantiShahariRojgarYojana (SJSRY), which is run by the Ministry of Housing and Urban Poverty Alleviation;
- Bettering ITIs (Ministry of Labour and Employment); in addition to also .
- Priority industry bank loans approved by the Department of Financial Services.

The Ministry is implementing the Prime Minister's New 15 Point Programme for welfare of Minority Communities. It is an overarching programme which covers various schemes/ initiatives of the participating Ministries/ Departments with an aim to ensure that the underprivileged and weaker sections of six centrally notified minority communities have equal opportunities for availing the various Government welfare Schemes and contribute to the overall socio-economic development of the Country. The programme has the following broad objectives: (i) Enhancing opportunities for education; (ii) Ensuring an equitable share for minorities in economic activities and employment, through existing and new schemes, enhanced credit support for self-employment, and recruitment to State and Central Government jobs; (iii) Improving the conditions of living of minorities by ensuring an appropriate share for them in infrastructure development schemes; and (iv) Prevention and control of communal disharmony and violence.³¹

Problems of Religious Minorities in Contemporary Political Discourse of India

Religious beliefs and practices must be considered in any fair evaluation of India's post-independence social and economic landscape. Despite the country's independence for over 75 years, the fundamental idea of "centrist ideology," rooted in nationalist history and the pain of partition, has endured. A Catch-22 was created when India's secularism and its dedication to all groups and equal citizenship collided.³² Among the fundamentalist movements that emerged in the late 1980s, Hindutva (Hindu nationalism) acquired significant traction. The Hindu right's political wing, the BhartiyaJanta Party, triumphed in the 1989 national elections. When this party came to power, it unleashed a wave of terrible riots that hit minority communities the worst, especially Muslims and Hindus. The Babri Masjid controversy of 1992 exacerbated the existing severe divisions between these two religious

³¹ Available at

<https://pib.gov.in/Pressreleaseshare.aspx?PRID=1796196>.

³² Lloyd I. and Susan H. Rudolph, *In Pursuits of Lakshmi* (Chicago, 1987)pp. 38-39

parties. The Hindu right also claims that Rama was born at the Babri Masjid, a mosque constructed in 1528 in the Hindu-dominated Ayodha region of Uttar Pradesh, India. Tensions between the two faiths flared up again in 1992 when hundreds of Hindutva volunteers destroyed the mosque on December 6th.³³

"Many in the Western media viewed the 1992 violence as evidence that Indians failed in their attempt to erase their "old" religious and sectarian identities in favour of more "modern" national, class, and occupation identities," as pointed out by Shabnum Tejani.³⁴ This was the declared purpose of the group at the time. This is how the state's communal politics get their start, and it leaves every Indian citizen with two identities: one linked to their religious group and one to the larger national community. Modern Indians have turned to communalism as a means of protesting those in positions of power. The Muzaffarnagar district of Uttar Pradesh was the site of communal violence in the years leading up to the 2014 general election, revealing deep differences between India's Muslim and Hindu populations. Many innocent people lost their lives as what began as a little fight in a Muzaffarnagar neighborhood turned into a national scandal. After right-wing Hindu leaders and their supporters gave incendiary speeches, it ignited three days of rioting and heavy carnage across most districts of Uttar Pradesh, drawing support from all over the country. As a result of a curfew and requests for the Indian army to bring calm, the riots waned and ultimately stopped. Natural catastrophes have a profound effect on indigenous Muslim communities. It drove Muslims from about 150 communities into exile and killed hundreds of people. Local groups that aid the victims report that over 27,000 Muslims have fled Muzaffarnagar and the neighbouring regions.³⁵ A lack of legislative consensus has resulted from the state's failure to address this, despite the constitution's strong foundation of rights and protections for minorities. There are huge inequalities in modern India, for instance, when it comes to the distribution of government jobs and financial resources. According to data collected during the colonial era, the percentage of Muslims in government has decreased from 35% to 35% in independent India, while the percentage of Christians has decreased from 15% to 1%. Conversely, the most noticeable difference is the profession of the Brahmins. Government posts were held by Brahmins at a rate of 3% under the colonial rule, which was somewhat lower than the 3.5% of the population that was Brahmin. The percentage of Indians employed by the government rose to 70% after independence. The official numbers show that Brahmins do about as well in elections as other castes. There are 503 Brahmins in the Lok Sabha and 89 in the Rajya Sabha. These figures clearly show that between 36% and 63% of India's profitable jobs are held by a small minority of the Brahmin caste, which accounts for only 3.5% of the population.³⁶ Minorities in India have been the target of

political bigotry and resource exclusion since ancient times. Hind vigilante groups murdered four Muslim men in October 2015 around the nation on the pretext that they were involved in the butchery of cows. The brutality was perpetrated by extreme right-wing Hindu organisations. These organizations rationalised their actions by asserting that Hindus harboured fears of cows and sought to save them by prohibiting the consumption of beef. There have been similar incidents of violence against Christian communities in India and other nations.³⁷

Attacks on houses of worship in many Indian states in 2015 prompted worries about the BJP's role in fostering Hindu extremism. Reliable sources indicate that around 8,000 Christians were killed in these crimes, which occurred throughout eighty-five similar incidents in India's twenty states.³⁸ Historically, religious minorities in India, including Christians and Muslims, have been the targets of the Hindu nationalist movement. Although these communities have been the target of violence since India's independence, recent events show that the political balancing act of prioritising communities over equal citizenship, which was successful in the early decades of independence, is becoming increasingly unsustainable. Violence against minorities and violation of minority rights has been sustained and upheld by the state in several recent cases.³⁹

2. Conclusion

It is important to examine the present situation thoroughly to guarantee that minority groups in multicultural societies may be heard and have a role to play in a democratic government. The importance of democracy extends beyond the protection of individual liberties like free speech; it is fundamental because democracy seeks to foster an environment where diverse perspectives and sensibilities may interact creatively; this is necessary because truth can only be revealed via communication across cultures. Modern Western societies have institutionalised federalism, subnational constitutions, regionalism, and affirmative action to safeguard the rights of minorities. However, in India, a country whose culture is still developing and thus becoming more illiberal, neither the federal package nor the non-affirmative action schemes seek to protect the rights of minorities. Contrarily, their very design protects minority liberties from the tyranny of the majority. For example, many West European countries which are not multicultural as India, has discussed minority rights protection measures in recent years. Human rights groups, according to Nicole Topperwien, may assist governments in adjusting to multicultural contexts. A group's involvement rights are its guaranteed and institutionalised particular influence over its representation in various forms of government decision-making, whether that representation is proportional, asymmetrical, or equal. In actuality, this is already covered by the constitution, since it upholds the secular and egalitarian ideals of the nation and acknowledges

³³ Anupama Roy, *Gendered Citizenship: Historical and Conceptual Explorations* (Orient Black Swan Press, 2005)

³⁴ Shabnum Tejani, 'Defining Secularism in the Particular: Caste and Citizenship in India 1909-1950' [2013] Religion and Politics section of the American Political Science Association, 705

³⁵ See, The Plight of Religious Minorities in India, Tom Laqntos Human Rights Commission Testimony by Human Rights Watch.

³⁶ Dominic George, "Mandal commission and the Failure of Dalits," *Journal of Dharma*, Vol. XVI, No.1, Jan-March 1991, 67

³⁷ Ibid.

³⁸ See Reports from Times of India, available at <http://timesofindia.indiatimes.com/india/85-major-anti-Christian-incidents-in-2015-claims-NGO/articleshow/50618719.cms>

³⁹ e.g., *Aishat Shifa Versus The State Of Karnataka & Ors.* (2022 LiveLaw (SC) 842), popularly known as Hijab ban case.

and protects the rights and interests of minorities. On the other hand, the political will to support and reinforce these core principles is severely lacking. Secularism and equality, as fundamental principles, may not be enough; to overcome the obstacles they face, a stronger political will is required.