

DEBATES ON MINORITY RIGHTS IN INDIA: LIBERAL PERSPECTIVE

Mohammad Mustafa. B.*

Abstract

This article tries to situate the minorities, especially the Muslims in the context of their rights and liberties guaranteed in the democratic constitutional set up. This paper intends to bring about the problems and challenges before the minorities in terms of asserting their rightful claims as a citizens of liberal democracy. In the first part, this article throws light on how liberal democracies in Europe cope with the conflicts arising out of multiple diversities and cultural ethos owing to multi-culturalism. Therefore, minorities' rights have gained greater visibility and relevance in India too. It is in this context that minority rights have assumed added significance in post-independent India right from the inception of Indian Constitution. In the second part, this paper discusses on India's experience and its constitutional arrangements in providing various kinds of political safeguards to its minorities. Last part of this paper focuses on some of the major aspects of majority- minority conflicts that strain the relationships among the communities leading to communal conflicts and perpetuating the rival interests.

Keywords: Multiculturalism, minority rights, majority-minority, democracy, diversity, political safeguards, Muslim

* Assistant Professor, G.F.G.C. Srirangapatna, Mandya & Research Scholar, Department of Political Science, University of Mysore, Mysore, Karnataka, India.

Introduction

It is quite important to study the status of minorities and the questions related to management of cultural and religious diversity, particularly, the Muslim minority communities in both the European and Indian settings. We have been observing the recent setback to the multicultural thrust of European Nation States. If we take the example of Britain, Former Prime-Minister Tony Blair and his successor David Cameron in their Macho and Munich speech respectively argued for muscular liberalism and muscular defense of western values. Cameron raised a serious question on State Sponsored multiculturalism especially with regard to Muslim integration in British Society.

How far can the Liberal democratic State in Europe go in accommodating the demands of other cultures particularly those of the Muslim communities? What is the nature of multiculturalism that was being practiced but had to be abandoned in the face of a growing political assertion of Muslim communities? Can the Indian model of a liberal State and multiculturalism provide an answer to the problem of integration of Muslim minority communities in the European- world.

As we know a liberal State is one that guarantees basic fundamental rights to its citizens and governs in accordance with the principles of the rule of law, accountability and non-discrimination. Both the Indian and European States fall within the ambit of this definition, despite vast diversities in the historical trajectory of their evolution. In sharp contrast to the notion of pluralism, multiculturalism unmasks the value neutrality of a liberal State and demands the equal recognition and representation of group/community rights and culture in the public sphere, more significantly it aims at reconciliation of cultural diversity and political unity.

Within the framework of political multiculturalism, we can trace two distinct phases in the engagement of European governments with Islam and Muslim immigrant communities. During the first phase (1974-1989), the European governments dealings with the Muslim immigrant communities essentially revolved around accommodating the religious needs of the Muslim populations of immigrant origin: the availability of burial sites, prayer spaces, ritual animal slaughter, religious education, chap loins in hospitals, prisons and the army, permission for the construction of mosques, the establishment of Muslim schools, among others.

Anwar Alam explores in his article "Liberal States and Muslim Minorities", The pragmatic multicultural arrangements made during the 1970s and 1980s were derived from multiple objectives, ranging from cultural packages for Muslim immigrants to help them cope with the economic crisis emanating from a shift in the economy from manufacturing to service industry, securing Muslim government's co-operation to manage religious needs, and tapping Arab resources for investments in Europe. However, the assertion of the Muslim immigrant community in European public sphere and the rise of Islamic fundamentalism with an anti-western tone in the Muslim world by the end of the 1980s sensitized western governments to the need for regulating Islam in the European hemisphere. The governments were particularly alarmed by the fact that the demand for recognition of Islam in the public sphere came from second and third generation Muslims who were expected to have been assimilated the dominant European culture. The second phase was characterized by a policy regulation control and incorporation that reflected the continuity of the historical patterns of the subordination of the church to the state in Europe. These efforts favored certain Muslim groups over others; sought to educate immigrant Imams locally, requiring them to speak the vernacular and understand the local culture; stiffened the criterion of citizenship; facilitated construction of mosques (but without minarets) and funded religious instruction in the hope of reducing financing by and influence of Muslim states: imposed restrictions on the wearing of hijab; and virtually molded Muslim organizations in to structures that corresponded to national criteria and objectives, such as Belgium's central Body for the Islamic Council, Germany's central council of Muslims, and the French council of the Muslim religion. (Anwar Alam, Seminar 2011)

Question of Minority Rights in the constituent Assembly:

In her paper, "Reservation Minority Rights and the making of the constitution; Politics of inclusion: casts, minorities and affirmative action", Zoya Hassan asserts, "The founding vision of India is intrinsically plural and egalitarian in conception. This vision was a coming together of what constitutional historian Granville Austin has called the 'National' and 'Social revolutions' respectively." (19). The national revolution founded on democracy and liberty, whereas the social revolution focused on emancipation, equality and Justice. Our constitution strived to bring about national unity and encourage progressive social change at this juncture.

The most important project of the visionaries of our republic was to establish a society whose citizens shared a strong bond of national identity along with recognition of cultural diversity and at the same time, ensure protection to historically disadvantaged and vulnerable sections. The political discourse in the making of the constitution was driven by the demands of equality of citizenship and non-discrimination. National unity was given utmost priority in the country of deepening Hindu-Muslim tensions. The new frame work did involve recognition of plurality of religions, languages and cultures, and it logically favored the recognition of minority rights rather than any majoritarian system.

Minority rights in a conceptual sense were not frequently mentioned. The first attempt to do so in terms of principles was by Jawaharlal Nehru in his 'Note on minorities' published in young India on 15 may 1930. It addressed the question in its totality. These principles were amplified in the resolution adopted by the congress working committee in its meeting at Calcutta on 1 November 1937. "in all matters affecting the minorities in India, the Congress wishes to proceed by their cooperation and through their good will in a common undertaking and for the realization of a common aim which is the freedom and betterment of all the people of India. Congress president Maulana Abul Kalam Azad:

Summed up the position in two propositions: i) whatever constitution is adopted for India, there must be the fullest guarantee in it for the rights and interests of minorities, and (ii) the minorities should judge for themselves what safeguards are necessary for the protection of their tights and interests. The majority should not decide this. Therefore the decision in this respect must depend upon the consent of the minorities and not on a majority vote. (Zoya Hassan, 22).

The discussions in the sub-committee on minority rights focused on the question of reservations in legislatures, executive and government services for the minorities, in addition to the right to freedom of religion, which was known as the freedom of conscience and the right to profess, practice and propagate religion. Initially, the term minority attained significance as it was denoted disadvantaged group in comparison with the rest of the population. As per this above ground constitutional safeguards were considered for three types of groups viz religions minorities, back ward castes, and the SCs and tribal communities. Later of constitutional safeguards on different grounds as if some are numerically superior more socially backward than others and some others they were culturally distinct from majority population. One of the

members in the Constituent Assembly representing the vulnerable section argued, “We are one-fifth of the population of the whole country. It is impossible for a democratic country to ignore one-fifth of its population.” (Hassan, 23).

The issue of preferential treatment for the backward classes on grounds of social and economic backwardness emerged backward classes were political minority and not a religious minority and most members of the constituent assembly justified the grant of cultural rights to religious minorities but not economic and social right. However, the sub-committee on minority right in its report to the advisory committee on fundamental right on 24th July 1947 had recommended reservation for Muslims, Sikhs and Christians in public employment and legislatures in proportion to their population- but on the basis of joint electorates based on the above recommendation the thrust was on three major areas (a) representation in legislatures, (b) reservation of seats in the cabinet, and (c) reservation in government services. It recommended by a majority of 26 to 3 that as a general principle there should be reservation of seats for different recognized minorities in various legislatures for a period of ten years, but after the partition of the country this proposal was dropped.

Partition changed the parameters of the constitutional discourse, which was redefined in terms of nationalism versus separatism and secularism versus communalism. Therefore in the changed atmosphere, the whole question of minorities was reopened and the Subcommittee on minority rights rejected reservations and political safeguards were opposed on the ground that the continuation of religion based representation will diametrically opposed the ideal of a secular state and the separation between state and religion. The traumatic event signaled the danger of religion intruding in to party politics. Further many divisions would encourage the isolation of minorities and sharpen communal differences. It would endanger national unity, as these would reinforce communal divisions and would create a future society in which citizens remain permanently alienated from one another. Finally, rejection of political safeguards was justified on ideological grounds of universalistic values and the principle of equality. Bothe Nehru and Sardar Patel justified the abolishing of political reservations on the ground that the minorities themselves had changed their attitude and did not want it. It is likely that partition changed the attitude of most Muslim members who thought it was better to drop this controversial demand. Nehru described the proposal to abolish reservation as “a historic turn in our destiny. He was of

the opinion that any demand for minority safeguards betrayed a lack of trust in the majority. Nehru called it an act of faith above all for the majority community because they will have to show after this that they can behave to others in a generous, fair and just way. Let us live up to that faith.”(Zoya Hassan, 26).

All subsequent proposals for political reservations for minorities were opposed on the ground that they were inimical to national unity and incompatible with secularism. Significantly there were no efforts to balance off the abolishment of political safeguards by introducing and electoral system that would facilitate adequate political representation of minorities in legislatures as Nehru had hoped. It is a tragic irony that providing political safeguards and reservations for minorities were strongly opposed on the ground that it will endanger the national unity and secularism Pandit Nehru, believed in act of faith and trust in maintaining majority-minority relations.

Minority Rights in Independent India:

The Constitution, of India mentions the word minority, in Articles like 29-30 and 350A to 350B. Article 30 makes a specific reference on two categories of minorities; a) religious and b) linguistic. Article 350A and 350B mention only linguistic minorities. In common parlance, the expression ‘minority’, “means a group comprising less than half of the population and differing from others, especially the predominant section, in race, religion, traditions and culture, language etc.’ (Communalism Combat).

Dawn of freedom and partition of the country was accompanied by bloodshed on an unprecedented scale and migrations of population in both directions from Pakistan to India and vice versa. In this atmosphere of mutual hatred and ill will, the country required total resilience to hold its aspirations of becoming a true democracy. Therefore the constituent Assembly members felt that they owed a duty to the Muslims, and other minorities in the country. “In all earnestness the constituent Assembly addressed itself to the problems of minorities. An Advisory committee on minorities was appointed incorporating representatives of all minorities Muslims, Christian, Parsis, Anglo- Indians.

Although Indian democracy is commended world- wide for being the largest democracy yet it has not responded so far to the problem of the ‘exclusion’ of the Muslim minority

community in general which constitute at least 15 percent of the total Indian population and being the second largest majority community in the country.

India's democratic experiences of about six decades with majoritarian political structures of power and influences completely failed to overcome the problem of 'exclusion' of the Muslims in most of the sectors of human resource development. The Muslim community is statutorily enabled only in the states of Karnataka, Tamilnadu and Kerala to avail reservation policies of respective governments meant for backward classes of citizen. In 2004, the state of Andrapradesh followed similar course of action for social Justice on the basis of valid materials and survey reports of the minority commissionerate and Andrapradesh backward classes Commission. But the Indian Judiciary at the state level stopped this public policy.

On the other hand, anti-Muslim elements in political parties, bureaucracy and various other governmental and public sector levels, openly questioned the survival of the principle of the rule of law. This has already jeopardized civic; political culture in the country. As a result, the Muslim community has entered in to the vicious cycle of backwardness and exclusion which degenerate the whole purpose of democracy in the country maintaining constitutional obligation mostly on the paper. B. R. Ambedkar, one of the chief architects of the Indian constitution, had cautioned against being content with mere political democracy which could not last unless social democracy lay at its base. According to Dr. Ambedkar:

Two things were missing in Indian Society equality and fraternity. On the occasion of the adoption of the constitution he said on 26 January 1950 we are going to enter in to a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man, one vote one value. In our social and economic life, we shall by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to deny equality in our social and economic life? It we continue to deny it for long we will do so only by putting our political democracy in peril. (Arshi 40-41 qtd.).

Democracy is made democratic by basing its rule on the consent of those governed. The means of articulating that consent and feeding in to the system of governance is the concept of popular sovereignty. There must also be a system of institutions for transmitting the will of the people to the rules, together with a willingness on the part of the rules to translate popular

inspirations. we should also remember that while debating the provisions which ultimately went in to part IIIrd of the constitution Fundamental rights – the members of the constituent assembly were fully aware of giving certain additional facilities to the minorities. Right to freedom of Religion (Article 25) is available to all including the minorities. Under article 26 of the constitution every religions denomination has a right to establish religious and charitable institution and maintain the same. While these two Articles, namely Article 30, makes special provisions for minorities as follows.

In his article, “liberal states and Muslim minorities”, R.A.Jagirdar argues, “All minorities whether based on religious or language shall have the right to establish and administer educational institutions of their choice.’ (R.A.Jagirdar May 2003). The state shall not, in granting aid to educational institutions, discriminate against a minority institution. The importance of this provision which is having loaded infavour of minorities in India has not been properly appreciated by the minorities. And another noticeable thing in this context is to be considered more seriously that, the elite class among the Muslims tried to make use of the provisions specially given to the minorities to the maximum level. But the malady is that the elite class monopolized all kinds of benefits and advantages earned through constitutional provisions leaving nothing fruitful to the ordinary Muslim masses. Indian religions are allowed to maintain communications with co-religionists abroad financial contributions from abroad are not banned but are subject to scrutiny by the ministry of home affairs of the central government.

But the experiences tell us Christian brethren in abroad contributed much for the socio-economic and educational development of the community in the form of charity. But Muslim countries did not do much in this respect on the other hand, wahabism, with enormous Saudi petrodollars at its disposal, has wrought havoc worldwide. Madanjeet Singh a UNESCO, Good will Ambassador and founder of the South Asia foundation, who travelled back to Kashmir, Kerala, Lahore and Indonesia to get a measure of the tragic and vicious effects of fundamentalist forces. He also hopes resilient, multi layered secular cultures will be able to fight back. He stated how the fundamentalist outfits who solely claim to champion the cause of Islamism in different forms across the Country have been posing threats to the multilayered secular cultures of India.

But everything proved wrong in the post independent India, where minorities are constantly oppressed just because they have no constitutional safeguards to represent themselves or to articulate their rightful and just demands within the constitutional or legal frame work. The feeling of insecurity and fear among the minorities has been strategic weapon across the political parties to exploit and maneuver them as more vote banks without of empowering the large minority sections as a political force. The apprehensions and the concerns expressed by the national leaders in case of providing political safeguards to these minorities of become a fallacy. Minorities suffered and unprecedented trauma and humiliation even in the democratic set up without gaining political safeguards. Majoritarian back lash owing to the clandestine and systematic anti-campaign, against the minorities in the name of minority appeasement; was a great blow to the minorities in terms of spoiling the relationship between the majority and minority leaving no space for them to articulate their basic and just demands to fulfill their socio-economic and cultural empowerment. The whole democratic system was vitiated around building all kinds of perverted public discourses on minorities and excluded them from the national main stream.

There is a wide spread recognition that unless nation states become more sensitive to the concerns of and the need for minority voices in decision making strategies of inclusion cannot have any chance of success. The critical issues in this regard is' the ways and methods through which minorities can be included in public institutions. Until recently, however, policy makers in India did not view these inequalities with regard to the under- participation of minorities in governance as a problem. Taken in to consideration the whole issue of minority rights and deprivation of 64 years after independence, the Muslims remain economically backward, socially marginalized, politically under represented, educationally much below the national lever and practically unrepresented in any field of governance and administration. According to the report of the Sachar Committee, Muslim community is almost as backward as the scheduled castes and the scheduled tribes and more backward that the non- Muslim OBC's. Since 1947, Muslims have been consistently under represented by 50% in proportion to their population.

Conclusion:- The condition of the average Muslim worsened in much of India. A.G Noorani , described, the condition of Indian Muslim's as ' sad ' when using this term, he had in mind the unequal treatment, the plight of Urdu, and the threat to the physical security of ordinary

Muslim's. We have to take into consideration the fact that, who are really marginalized? Does it mean that every single Muslim is marginalized? Is there pervasive and unmitigated discrimination of all Muslims? Since India is a secular state and aspires to the dissolution of inter-religious conflicts and maintains equanimity among the different sections of the people. Therefore, the life of religious minorities in India is comparatively better than the life of minorities in many other countries.

Another reality we should understand is in politics minorities do not function as unidimensional cultural entities: because they enter larger political formations, align themselves with different forces in all civil society and assert Citizenship rights. Since minority rights remain constitutionally embodied and politically embedded in the Nation-State system. It is necessary to find new spaces for minority politics in which both secular interest and cultural identities of the minorities not only survive but also flourish.

Works Cited

- Ali Engineer, Asghar. *Mainstreaming Minorities Muslim Minority Continuity and Change*. New Delhi: Gyan publishing House, 2008.
- Arshi, Khan. "Minority Rights, Liberal Neutrality and exclusion a case study of India." *Indian journal of Politics*, Vol. XLII, (January-June, 2008) 40-41.
- Alam, Anwar. "Liberal States and Muslim Minorities." (Seminar, May, 2011).
- Alam, Javeed. *Political articulation of mass consciousness in present day India :The state, Political process and identity: reflections on modern India*. New Delhi: Sage Publications, 1989.
- Bajpai, Rochana. "Constitution Making and Political safe guards for Minorities: An ideological Explanation." *Journal of Contemporary Thought*, (30 Winter 2009).
- Devji Ali, Faisai Fateh, *Nationalism*. October, 2000.
- Gangwal, Dr. Sunita. "Higher education minority rights and social justice." *Indian Journal of secularism*, 12.4, (Jan-March-2009).
- Hassan, Zoya. "Reservation Minority Rights and the making of the constitution." *Politics of Inclusion: Casts, Minorities and Affirmative Action*." New Delhi: Oxford University press, 2009.
- Jahagirdar, R. A. "Minority Rights-Political Aspects." *The Radical Humanist*, (May 2003) (qtd. 12).

Jaffrelot, Christophe. *Caste and the rise of marginalized groups; The State of Indian Democracy*. eds. Sumit Ganguly, Lorry Diamond & Mare F Plattner. OUP-2009.

Kumar Jha, Dharmendra. "Indian Muslim; A social question; Third Concept." May, 2010.

Rajan, Nalini. *Dealing with Pluralism Secularism, Democracy Justice*. New Delhi: Sage Publication, 1998.

Robinson, Raweena. "Democracy Secularism and Minority rights in globalizing India." *Indian Journal of secularism*, 11.4, (Jan – March 2008).

Singh, Madanjeet. "A threat to multilayered Secular cultures." *The Hindu*, (October 31-2011).

Zoya, Hassan. *Introduction: The Political Careers of the State in Independent India: Politics and the state in India*. New Delhi: Sage Publications, 2000.

