

MINORITY RIGHTS AND THE INDIAN CONSTITUTION

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Introduction

Protection of minorities is the hallmark of a civilization. According to Gandhi ji, the claim of a country to civilization depends on the treatment it extends to the minorities. Lord Acton added another dimension: the most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities. Rights of minorities figured prominently in the Constituent Assembly. Our founding fathers were deeply concerned to ensure full meaningful protection to the members of the minority communities individually and collectively. The minorities particularly Muslims, Christians, Sikhs were apprehensive that their civil and political rights may be ridden rough shod by the majority community despite the secular pretensions of independent India.¹

The Preamble to the Constitution declares the State to be 'secular' and this is a special relevance for the religious minorities. Equally relevant for them, especially, is the declaration of the Constitution in its Preamble that all citizens of India are to be secured 'liberty of thought, expression, belief, faith and worship and 'equality of status and of opportunity.'

There are many theocratic countries where equal rights are not extended to all of its citizens. They have categorized citizens according to their beliefs. The rights are also attached differently; we must thank the fathers of our constitution who envisioned equal rights to all citizens and added special rights to religious and

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¹ Prakash Louis, Minority Report in Secular India, Tehelka report EDIT/OP-ED.

linguistic minorities. The Indian constitution guarantees equal rights to all its citizens, violation of which by the State or Central Government can be challenged in the High Court or Supreme Court as per the Article 32 of the Constitution, such cases are taken up with utmost urgency. Article 14 of the Constitution states that, 'the State shall not deny to any person equality before the law or the equal protection of the laws within territory of India.' It gives equal status to all citizens in freedom and dignity.²

The various articles of the Constitution providing rights to the minorities, clearly and firmly point out to only one direction: that of a multi-religious, multi-cultural, multi-lingual and multi-racial Indian society, interwoven into an innate unity by the common thread of national integration and communal harmony. By the yardstick adopted by the framers of the Constitution and crystallized into its provisions the Indian Nation is not just a conglomeration of individual inhabitants of this State; it comprises of two distinct categories of constituents. The two-tier commonwealth of Indian Nation includes, on one hand, every citizen of India individually and, on the other hand, the multitude of religious, linguistic, cultural and ethnic groups among its citizens. The Indian Nation is an enormous coparcenary in which the individual citizens are also members of their own respective branches taking the form of religious, cultural, linguistic and ethnic groups. And all these groups, like all individuals, have the same Fundamental Rights to enjoy and the same Fundamental Duties to discharge.

The social pluralism of India, as fortified by the unique Constitutional concept of secularism, raises the need for the protection and development of all sorts of weaker sections of the Indian citizenry – whether this 'weakness' is based on numbers or on social, economic or educational status of any particular group. The Constitution, therefore, speaks of religious and linguistic minorities, scheduled castes, scheduled tribes and backward classes and makes–or leaves room for making–

² Fr. Anand Muttungal, "Constitutional Safeguards for Minorities in India (Part IV)".

for them special provisions of various nature and varying import.

The word 'minority' or 'minorities' has been used in the constitution of Indian in some Articles – 29 to 30 and 350A to 350B – but it is defined anywhere. Article 29 has the word of "minorities" in its marginal heading but speaks of "any sections of citizens...having a distinct language, script or culture". Article 30 speaks specifically of religious and linguistic minorities. Articles 350A and 350B are related to linguistic minorities.

In common parlance, the expression 'minorities' means a group comprising less than half of the population and differing from others, specially the pre dominant section, in race, religion, tradition and culture, language, etc. A special sub-committee on the Protection of Minority Right appointed by the United Nations Human Rights Commission in 1946 defined the 'Minority as those "non-dominant groups in a population which posses a wish to preserve stable ethnic, religious and linguistic tradition or characteristics markedly different from those of those of the rest of the population."³ For understanding the concept of minorities we first need to look back at the Indian Constituent Assembly.

Minority Rights in the Indian Constituent Assembly, 1946-1949

The Constituent Assembly debates mark a crucial turning point in the history of state policies of minority preference in India. Since the late nineteenth century, special provisions had been instituted by the colonial state⁴ as well as by some princely states⁵ for a vast array

³ Rochana Bajpai on Minority Rights.

⁴ Group representation provisions in central legislatures were first introduced by the colonial state in the Morley-Minto Reforms of 1909, which granted separate electorates to Muslims. The Government of India Act of 1919 extended separate electorates to Sikhs, Indian Christians and Europeans. In the Government of India Act of 1935, a total of thirteen communal and functional groups were granted special representation. Reservations in government appointments for Muslims were first recognized by the colonial state in 1925. The policy was formalized and extended to other communities in 1934. See B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study* (Delhi 1967).

of groups designated as minorities or 'backward'. Under the Indian Constitution of 1950, preferential provisions in legislatures and government employment were restricted mainly to the scheduled castes and 'backward' tribes.

The Constituent Assembly began its proceedings as scheduled on 9 December 1946, with the Muslim League boycotting its sessions. In the Assembly's deliberations, the minorities question was regarded as encompassing the claims of three kinds of communities: religious minorities, scheduled castes, and 'backward' tribes, for all of whom safeguards in different forms had been instituted by the British and by Princely States in the colonial period. The representatives of most groups claiming special provisions in some form emphasized that the group was a minority of some kind. So close was the identification of the term 'minority' with the notion of special treatment for a group that even those opposed to a continuation of the colonial system of minority safeguards employed the same language to justify their stand. For instance, it was argued that the 'so-called minorities' were not the 'real minorities'. The latter were variously identified as 'the agriculturists', 'the rural people', 'the backward provinces', even 'the masses'. The claim was that these were the groups that ought to receive special treatment, rather than the communities hitherto favoured by the British. The speeches of representatives belonging to most religious minority communities reflected concerns regarding the submerging of a distinct cultural identity in independent India.

While the appellation 'minority' was popular among the representatives of almost every group claiming special provisions in the Constituent Assembly, nationalist opinion, for reasons that will be explored below, regarded the term unfavourably and consistently sought to restrict its usage. In nationalist opinion in the Constituent Assembly, individuals as well as groups were recognized

⁵ Some of the earliest instances of policies of group preference in government employment are to be found in the caste based reservation schemes instituted by the princely states, such as Mysore in 1895 and Kolhapur in 1902. See S. Bayly, *Caste, Society and Politics in India From the Eighteenth Century to the Modern Age* (Cambridge 1999).

as entities to which a liberal regime of rights, and its underlying norms of equality and freedom would apply.

Political safeguards, however, were a different matter. While political safeguards for minorities were included in the Report on Minority Rights adopted by the Constituent Assembly in August 1947 and in Part XIV of the Draft Constitution published in February 1948, nationalist opinion was hostile to such provisions from the outset. Political safeguards for minorities were reluctantly admitted as temporary, transitional measures, necessary until 'backward' sections of the population were brought up to the level of the rest, or until groups accustomed to 'privileges' under the colonial system had adjusted to the new order. In the dominant nationalist opinion, however, the ideal was always visualized as a situation in the future where political safeguards for minorities would no longer be necessary. Speeches in the Constituent Assembly employed several variants of arguments from national unity, secularism, democracy and equality and justice in opposition to minority safeguards.

Quotas and rights were provided by the constituent assembly but were admitted as a temporary mechanism for a limited purpose. Quotas were permitted as a means of reducing disparities in the levels of development between different sections of the population and, thereby assisting in the assimilation of these groups as well as in the development of the nation. These grounds were regarded as creating a case for quotas for the scheduled castes and tribes, but not for the religious minorities. As in the case of political representation provisions, an analysis of the legitimating vocabulary for reservation in the public services suggests that the retraction of quotas for religious minorities during the making of the Constitution was always a likely outcome.⁶

Religious and Linguistic Minorities

In contemporary situation the case of religious minorities at the national level in India includes, all those who profess a religion other than Hindu are considered minorities. This is because over 80% of the population of

⁶ Galanter, *Competing Equalities*, p. 363.

the country professes the Hindu religion. Among the minorities at the national level, Muslims are the largest minorities followed by Christians and Sikhs while all the other religious groups are still smaller.

As regard linguistic minorities, there is no majority at the national level and the minority status is to be essentially decided at the state/union territory level. For instance in the state of Jammu and Kashmir and the union territory of Lakshadweep Muslims are the majority. In the states of Meghalaya, Mizoram and Nagaland Christians constitute the majority. Sikhs are the majority community in the state of Punjab.⁷

Cultural and Educational Rights of Minorities

Articles 29 and 30 of the Indian Constitution lay down the provision relating to “Cultural and Educational Rights of Minorities”. Articles 29 and 30, which provide for the protection of interests of minorities and right to establish and administer educational institution respectively, read as follows:

Article 29: Protection of interests of minorities

1. 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.
2. No citizen shall 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: Rights of minorities to establish and administer educational institutions

1. All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

⁷ Dhavan, Rajeev, and Fali. S Nariman, ‘The Supreme Court and Group Life: Religious Freedom, Minority Groups and Disadvantaged Communities’ in B. N Kirpal and others (eds), *Supreme but Not Infallible: Essays in Honour of the Supreme Court of India* (Oxford University Press 2000), 256.

2. 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 as would not restrict or abrogate the right guaranteed under that clause.
3. 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.

Right to conserve language, script or culture (Article 29(1)): Clause (1) of Article 29 provides: “Any section of the citizen residing in the territory of India or any part thereof having a district language, script of culture of its own shall have the right to conserve the same”.

The “right to conserve” means the right to preserve and the right to maintain. The right to conserve one’s own language, script of culture, thus, means and includes the right to preserve and to maintain own language, script or culture. It includes the right to preserve and maintain own language, script or culture. It includes the right to work for one’s own language, script or culture and to agitate for the same.

The right contained in Article 29(a) may be exercised by setting up educational institutions and by imparting instructions to the children of their own community in their own language.

In *D.A.V. College, Bhatinala v. State of Punjab*⁸– The Punjab University was established at Patiala under the Punjab University Act, 1961. After the reorganization of the State of Punjab in 1969, the Punjab Government issued a Notification providing for the compulsory affiliation of all the colleges situated within the area under the jurisdiction of the Punjab University, Patiala. Thereafter, the University issued the impugned circular to all the affiliated colleges requiring them to introduce Punjab in *Gurmukhi* script as the Court struck down the

⁸ AIR 1971 SC 1731.

circular as well as examinations. The Supreme Court struck down the circular as violative of the right of the petitioner to conserve their script and language and to administer their institutions in their own way.

Right of Minorities to establish and manage educational institutions: Article 30(1) guarantees to all linguistic and religious minorities the ‘right to establish’ and the ‘right to administer’ educational institutions of their own choice. The word ‘establish’ indicates the right to bring into existence, while the right to administer an institution means the right to effectively manage and conduct the affairs of the institution. Thus, it leaves it to the choice of the minority to establish such educational institution as will serve both purposes, namely, the purpose of conserving their religion, language or culture, and also the purpose of giving through general education to their children in their own language.

Clause (2) of Article 30 prohibits the State from making discrimination in the matter of grant of aid to any educational institution on the ground that it is managed by a religious minority or linguistic minority.

In *State of Bihar v. Syed Raza*⁹– It has been held that for creation of post in a minority institution for appointment prior approval of the Vice-Chancellor is not necessary and the persons so appointed would be entitled to grant in aid in view of Art. 30(1) of the Constitution. Clause (2) of Art. 30 provides that the State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.¹⁰

The Supreme Court in *TMA Pai Foundation and Ors. v. State of Karnataka & Ors.*¹¹(2002) has held that for the purpose Article 30 a minority, whether linguistic or religious, is determinable with reference to a state and not by taking into consideration the population of the country as a whole. Incidentally, ‘Scheduled caste’ and

⁹ AIR 197 SC 2425.

¹⁰ Kamaludin Khan, Educational Rights of Minorities, 2nd edition, <http://twocircles.net/book/export/html/135425>.

¹¹ AIR 1994 SCC (2) 94.

'scheduled tribe' are also to be identified at the State/Union territory level. In terms of Articles 341 to 342 of the constitution, castes, races or tribes or parts of or groups within caste, traces of tribes are to be notified as scheduled caste or scheduled tribes in relation to the state or union territory, as the case maybe.

Article 15 and 16 of the constitution prohibit the state from making any discrimination on the grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them either generally i.e., every kind of state action in relation to citizens (Article 15) or in matters relating to employment or appointment to any office under the state (Article 16). However, there is a wide disparity in the social and educational status of different section of a largely caste-based, tradition-bound society with large scale poverty and illiteracy. Equality can only be among equals. Equality does not mean absolute equality but relative equality therefore, to favour the weak, the backward and the disadvantage, the constitution permits positive discrimination with reasons. Discrimination with reasons includes rational classification. Article 15 allows the state to make any special provisions for women, children, any socially and educationally backward class of citizens and scheduled caste and scheduled tribe. Recently Article 15 has been amended by the Constitution (93rd amendment) Act, 2005 to empower the state to make special provisions, by law, for admission of socially and educationally backward classes of citizens or schedule caste/tribes to educational institutional, including private educational institution, whether aided or unaided by the State, other than minority educational institutions. Article 16 also has a provision that allows the state for making provisions for the reservations in the appointment of post in favour of "any backward class of citizens which in the opinion of the state, is not adequately represents in the services under the State". Even though discrimination only on the ground of 'caste' or 'religion' is prohibited but positive discrimination on the ground of caste or religion along with other grounds such as educational and social backwardness is constitutionally permissible.¹² The Supreme Court in *Indra Sawheny and Ors. v. Union of*

¹² <http://www.jstor.org/discover/10.2307/4416749?uid=2&uid=4&sid=21103411136297>.

*India*¹³, has held that an entire community can be treated as a 'class' on the basis of its social and educational backwardness.

It can be seen throughout the Constitution that there has been an over emphasis on religious and linguistic minorities. This has led to the emergence of a preferential class of minorities. One corollary of this is that other minorities are frequently overlooked and are not recognized. This hampers their claim to the rights that they have been guaranteed by the constitution. In fact this challenges their status of minority. This problem has remained unaddressed since a long time. Providing proper recognition to other minorities is long overdue. They should be placed at par with the preferential class of minorities since they have also been granted the right to equality.

Constitutional Rights and Safeguards

Minority rights provided in the Constitution can be placed into two domains namely 'common domain' and 'separate domain'. The rights provided under 'common domain' are applicable to all the citizens of our country whereas 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 Constitution has made provisions for the Fundamental Rights in Part III, which the State has to comply with and these are also judicially enforceable. There is another set of non-justiciable rights stated in Part IV, which are connected with social and economic rights of the people. These rights are known as 'Directive Principles of State Policy', which legally are not binding upon the State, but are "fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws" (Article 37). Part IV of the Constitution of India, containing non-justiciable Directive Principles of State Policy, includes the following provisions having significant implications for the Minorities :

¹³ AIR 1993 SC 447.

Obligation of the State 'to endeavour to eliminate inequalities in status, facilities and opportunities' amongst individuals and groups of people residing in different areas or engaged in different vocations; [Article 38(2)]

Obligation of State 'to promote with special care' the educational and economic interests of 'the weaker sections of the people' (besides scheduled castes and scheduled tribes);

Part IVA of the Constitution, relating to Fundamental Duties as provided in Article 51 A applies in full to all citizens, including those belonging to minorities. Article 51A which is of special relevance for the minorities stipulates as – Citizens' duty to promote harmony and the spirit of common brotherhood amongst all the people of India 'transcending religious, linguistic and regional or sectional diversities; and citizens' duty to value and preserve the rich heritage of our composite culture.'

The Constitution has provided a definite space for both the 'domains' i.e., 'common' as well as 'separate'. In Part III of the Constitution, which deals with the Fundamental Rights is divided into two parts viz. (a) the rights which fall in the 'common domain' and (b) the rights which go to the 'separate domain'. In the 'common domain', the following fundamental rights and freedoms are covered: People's right to 'equality before the law' and 'equal protection of the laws'; [Article 14]

Prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth; [Article 15(1) & (2)]

Authority of State to make 'any special provision for the advancement of any socially and educationally backward classes of citizens' (besides the scheduled castes and scheduled tribes); [Article 15(4)]

Citizens' right to 'equality of opportunity' in matters relating to employment or appointment to any office under the State – and prohibition in this regard of discrimination on grounds of religion, race, caste, sex or place of birth; [Article 16(1)&(2)]

Authority of State to make 'any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State; [Article 16(4)]

People's freedom of conscience and right to freely profess, practice and propagate religion – subject to public order, morality and other Fundamental Rights; [Article 25(1)]

Right of 'every religious denomination or any section thereof – subject to public order, morality and health – to establish and maintain institutions for religious and charitable purposes, 'manage its own affairs in matters of religion', and own and acquire movable immovable property and administer it 'in accordance with law'; [Article 26]

Prohibition against compelling any person to pay taxes for promotion of any particular religion'; [Article 27]

People's 'freedom as to attendance at religious instruction or religious worship in educational institutions' wholly maintained, recognized, or aided by the State. [Article 28]

The minority rights provided in the Constitution which fall in the category of 'Separate Domain' are as under:

Right of 'any section of the citizens' to 'conserve' its 'distinct language, script or culture'; [Article 29(1)]

Restriction on denial of admission to any citizen, to any educational institution maintained or aided by the State, 'on grounds only of religion, race, caste, language or any of them'; [Article 29(2)]

Article 46 of Directive Principle of State Policy mandates the State to "Promote with special care the educational and economic interest of the weaker sections of the people... and... protect them from social injustice and all forms of exploitation." In this Article the ambit of weaker sections of the society is not limited to scheduled caste/tribes.

Special provision relating to the language spoken by a section of the population of any State; [Article 347]

Article 340 of the constitution empowers the president to appoint a commission to investigate the condition of socially and educationally backward classes but does not make mandatory

Provision for facilities for instruction in mother-tongue at primary stage; [Article 350 A]

Provision for a Special Officer for Linguistic Minorities and his duties; and [Article 350 B]

Sikh community's right of 'wearing and carrying of *kirpans*'; [Article 25]

Apart from these specific provisions the Constitution in its spirit advocates for equal rights for minorities. It attempts to do right the wrongs that have already been committed towards minorities. For minorities it is not uncommon to face discrimination. To remove this discrimination our constitution strives to take all possible measures. Apart from the constitution there are also some other provisions for the development of minorities. These provisions are largely legislative in nature. Some of them are: Protection of Civil Rights Act, 1955 [formerly known as the Untouchability (Offences) Act, 1955] and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. National Commission for Minorities has also been established by the National Commission for Minorities Act, 1992. The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978 which specifically mentioned that, "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State

Laws and in the government policies and administrative schemes enunciated from time to time. Sometime in 1984 the Minorities Commission was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare.¹⁴

Political Scenario

Article 79 of the Constitution states: "There shall be a Parliament for the Union which shall consist of the President and two Houses... Council of States and House of the People." However, the Constitution being supreme, its organs owe their existence to it. Each organ has to function within the Constitution's provisions. The Indian Constitution has borrowed heavily from the traditions and conventions of the British political system. Yet the doctrine of parliamentary sovereignty does not prevail in India. Indian Parliament is neither sovereign nor supreme. "It is the Constitution which is supreme and sovereign and Parliament will have to act within the limitations imposed by the Constitution."

A legislature has to act within the parameters set by the Constitution. It is expected that the political class would follow the rule of law in letter and spirit. Unfortunately, that does not seem to be the case. How else can one defend statements made by senior leaders that 'minorities' should not be wrongfully arrested or face undue harassment. If they had gone through the Constitution, they would have noticed that the term, minority, has not been explicitly defined. Article 30 (1) stipulates: "All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice." It goes on to add in vide 30 (3) that "The State shall not, in granting aid to educational institutions, discriminate against any institution on the ground that it is under the management of a minority, whether based on religion or language." It is thus clear that the term, minority, is identified on the basis of religion or language.

¹⁴ Rao, B. Shiva, v. K.N. Menon, Subhash C. Kashyap, and N.K.N. Iyengar, *The framing of India's Constitution*, vol. 2 (Indian Institute of Public Administration, 1966).

Should the political class define who is a 'minority' or should one go by what is written in the Constitution? Article 30(1) of the Constitution secures the rights of religious and linguistic minorities to administer educational institutions. Minority communities have been given this right under this article to preserve and strengthen the unity and integrity of the nation. If religious or linguistic minorities are not given protection under Article 30, they are likely to feel alienated.

However, it should be remembered that the right conferred upon minorities is not meant to place them at an advantageous position vis-à-vis the majority community. It is necessary to invoke Article 30 to remind India's politicians that minorities include religious and linguistic groups. Attempts to prioritize one over the other would violate fundamental rights. By harping on 'religious minorities', political leaders are doing exactly the opposite of what is enshrined in Article 14, which talks about the right to equality.

Let us explore the definition of the term, minority, as explained in *A.M. Patroni v. E.C. Kesavan*, AIR 1965 KER 75 (FB). Here it was held that any community, religious or linguistic, numerically less than 50 per cent of the population of the State is a minority community. This makes it evident that there may be political minorities, religious minorities and linguistic minorities, and that the unit of determining the status of linguistic and religious minorities would be the State.

A political leader from Karnataka has reportedly asked minorities to default on loans. Linguistic minority groups too have the right to respond to this clarion call on the part of a seasoned politician. In this context, one needs to remember, once again, that the Constitution of India is supreme. Hopefully, India's political leaders should take note, broaden their vision and recognize linguistic minorities. This will help them create equal opportunities for the people of India. Otherwise, they will be severely criticized for ignoring the right to equality guaranteed by Article 14.¹⁵

¹⁵ Massey, James, *Minorities in Democracy* (1999), Manohar Publishers, New Delhi, pp. 72-73.

National Commission for Minorities

The Union Government set up the National Commission for Minorities (NCM) under the National Commission for Minorities Act, 1992. Six religious communities, viz.; Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified as minority communities by the Union Government.¹⁶

The Commission has the following functions:

- Evaluate the progress of the development of Minorities under the Union and States.
- Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- Make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Governments or the State Governments.
- Look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.

The Commission has the following powers:

- Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- Requiring the discovery and production of any document.
- Receiving evidence on affidavit.
- Requisitioning any public record or copy thereof from any court or office.
- Issuing commissions for the examination of witnesses and documents.¹⁷

Conclusion

Demands for rights and entitlements on grounds of Identity are no doubt very different today than they were in colonial India. The idea of an India irreconcilably divided amongst its many identities would undoubtedly today be dismissed as preposterous. However, it seems

¹⁶ <http://minorities.in/profiles.php>.

¹⁷ National Commission for Minorities, India.

that the vision of a divided India has been replaced by a curious conception of 'Hindu' majoritarianism. A majoritarianism based on a sacralised conception of a 'Hindu' majority whose bearing on social experience is oblique (in the case of the scheduled castes) at best or tenuous at worst (in the case of the minorities and the backward classes). In other words the constitutional revolution of modern India is also a social vision that gathers up diverse sets of social experience by the dubious presumption that a sacral conception of 'Hindu' society can model the Indian social problem. Ironically it was exactly this lack of resonance with the Indian social condition that motivated the constitutional project to reframe the colonial system of minority rights.

