

Indian Streams Research Journal

MINORITY RIGHTS AT NATIONAL LEVEL

Abstract:-

India is among the most diverse societies in the world. It has people from all the major religions in the world—Hindus, Muslims, Christians, Sikhs, Buddhists, Jains and Zoroastrians (Parsis). When India gained independence in 1947, the political leadership and the framers of the constitution took note of this diversity, and they deliberated on a framework that would provide for a unified but culturally diverse state. The issue of minorities has become an important part of political discourse since the emergence of nation states and the prevalence of the concept of popular sovereignty. The rise of nationalism has given rise to the concept that the political boundaries of a nation should conform to the national characteristics of the people living within them. Problems of Minorities are multiple in nature, Racial, Religious, Ethnic, Linguistic and other minorities are subject to some or the other problems everywhere. The two main problems which they normally face are (1) the problem of prejudice and discrimination and (2) the problem of preserving their distinct social and



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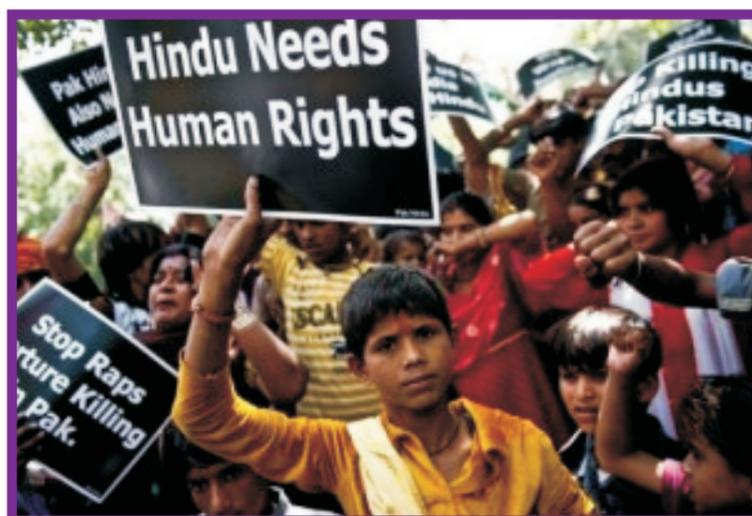
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rcultural life A discrepancy between a number of ethnic communities and sovereign political agents in the international arena implies that many ethnic, languages or religious minority groups seek recognition and protection within states they inhabit. The paper will evaluate the progress of the development of minorities under union and state. The present paper also offers information related to norms and mechanisms developed to protect the rights of persons belonging to national, ethnic, religious or linguistic minorities.

Keywords:

Minority Rights , diverse societies , political leadership .



INTRODUCTION:

The term “Minority” defies exact definition because no matter enumeration is necessary but not sufficient for defining it. It is for this reason that the question of defining “Minority” has always been a hotly contested issue in international and domestic fora. The term minority refers any small group in society that is different from the rest because of their race, religion, or political beliefs, or a person who belongs to such a group. The term “minority” is derived from Latin word “minor” and French word “minorite”. The word minor implies less, lessor, smaller, reduced and diminished and the word “minorite” denotes a condition of defeat. The U.N Sub commission on Prevention of discrimination of minorities has defined minority The term 'minority' includes only those non-documents group of the population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population

The term “Minority Rights” embodies two separate concepts, first normal individual rights as applied to members of racial, ethnic, class, religion, linguistic or sexual minorities, and second collective rights according to minority groups the term may also apply simply to individual rights of anyone who is not part of majority decision. The first minority rights were proclaimed and enacted by revolutionary Parliament of Hungary in July 1849. Minority rights cover protection of existence, protection from discrimination and persecution, protection and promotion of identity and participation in political life.

India was among the first major democracies in the world to recognize and provide for the right of cultural collectivities - diverse religious, linguistic communities, castes and tribes living in the country. Globally, the UN adopted a “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” in 1992, and a “Declaration on the Rights of Indigenous Peoples” in 2007. At the regional level, the Council of Europe adopted the “European Charter for Regional or Minority Languages” in 1992, and the “Framework Convention for the Protection of National Minorities” in 1995.

The dynamics of majority/minority relationships lead to the emergence of a range of minority issues which provide challenges and opportunities for States and societies as a whole. Such issues, in all spheres of life, are identified and articulated both by minorities and by States seeking to manage diverse societies.

In a vast country like India in order to provide equality and unity among its citizens, as there is a wide difference between the minority and the majority special rights should be endowed to minorities so that they can develop their personality to the maximum. In accordance to this view various articles in our constitutions and acts are being enshrined, so, that these minorities can compete majority.

The main problems faced by minorities in India are as:

1. Because of the differences in socio-cultural practices, history and backgrounds, minorities have to grapple with the issue of identity everywhere which give rise to the problem of adjustment with the majority community.
2. Different identity and their small number relative to the rest of the society develops feeling of insecurity about their life, assets and well-being. This sense of insecurity may get accentuated at times when relations between the majority and the minority communities in a society are strained or not much cordial.
3. The minority community in a society may remain deprived of the benefit of opportunities of development as a result of discrimination. Because of the difference in identity, the minority community develops the perception of the sense of inequity.

Unlike several other lands where the dominant human cultures have tended to absorb or eliminate others, in India the tendency has been to nurture diversity, which has been favoured by the diversity of the country's ecological regimes. Powerful kingdoms and enumerable dynasties, contributed to the shaping of India's cultural regions.

The Indian Constitution guarantees equal rights to all the citizens, violation of which by the state or central Government can be challenged in the High Court as per the article 226 of the constitution and in the Supreme Court of India as per the article 32. In article 15, it is stated that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them. The constitution of India is very clear in terms of Minority Rights. The Indian Constitution very well protects the minorities. The Constitution provides two sets of rights of minorities which can be placed in Common Domain and Separate Domain. Thus minority rights form cornerstone of the Constitution.

The Indian Constitution ensures “justice, social, economic and political” to all citizens. The Indian constitution enshrines various provisions for the protection of the rights and interest of the minorities.

a) Cultural and Educational rights Of Minorities:

Cultural and educational rights of the minorities are very important and essential which work as a tool for the upliftment of the minorities. Culture plays a vital role for the congenial development of children who belong to the community of minorities and that are why the preservation of culture, language and religion are important. Without education the progress of a community is not possible and the transformation of a society depends on education.

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.

The application of this Article is upon person having a distinct language, script or culture of its own and it takes into the consideration two types of minority one linguistic and other religious minority. If they have the same can be protect it. This right includes the rights “to agitate for the protection of the language.” It also not subject to any reasonable restriction like other fundamental rights and hence it is an absolute right. Under Article 29(1) any school or university can promote education in regional language as far as it is done for minor and language of the minor.

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:-

Right of minorities to establish and administer educational institutions:

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

b. The state shall not, in granting aid to educational institutions, discriminate against any education institution on the ground that it is under the management of a minority, whether based on religion or language.

There were several decisions of the Supreme Court since 1959 interpreting the scope of Article 29 and 30.

1. Whether a particular community is a minority or not is to be judged on the basis of the entire population of the area to which the particular legislation applies.

2. A minority can effectively conserve its script, language and culture by and through the establishment and maintenance of educational institutions of its choice.

The purpose of these rights was not to create vested interests in separateness of minorities but to maintain their individuality as well as distinct identity of their language and culture. But the preservation of such distinctiveness should not result in the minorities remaining isolated from the mainstream of national life.

LINGUISTIC RIGHTS

The Constitution of India recognises eighteen languages as “scheduled languages” while those languages not included in the scheduled eighteen are listed as “minority languages”. A close examination clearly shows that the criteria used to divide languages into “scheduled” and “non-scheduled” (minority) languages fail to account for the status of languages in India. The Constitution does not provide a clear criterion for defining minority languages.

The States Reorganization Commission that was set up in the early 1950's to rationalize the administrative structure of the country soon realized that languages of minority groups were commonly not among the languages mentioned in Schedule VIII of the Constitution. It, therefore, recommended certain measures to promote the cause of linguistic minorities. Consequently Article 350A and 350B were added to the Constitution.

Article 350-A "It should be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision for such facilities."

Article 350-B

1. There shall be a special officer for linguistic minorities to be appointed by the President.

2. It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the governments of the states concerned.

Article 347

Article 347 specifies that if there is a demand from a linguistic minority community, then the President can invite the respective State to recognise their language as a co-official language, but does not clearly explain what is meant by a “substantial proportion”. This article also declares that minority languages can also be used for official purposes

Accordingly, a state should be recognised as unilingual only if one language group within the state constitutes 70 per cent or more of the total population. Moreover, where there is a minority of over 30 per

cent or more of the total population, the state should be recognised as bilingual for administrative purposes. A similar principle applies at the district level.

C) RELIGIOUS RIGHTS:

India is among the most diverse societies in the world in terms of religious minorities. It has people from all the major religions in the world—Hindus, Muslims, Christians, Sikhs, Buddhists, Jains and Zoroastrians (Parsis). Religious Composition of Indian Population, as revealed in 2001 census, is as follows: Hindus: 81.4%, Muslims: 12.4%, Christians: 2.3%, Sikhs: 1.9%, Buddhists: 0.8%, Jains: 0.4%, and others: 0.7%. Constitutionally India maintains secularism without unnecessarily curtailing the essential religious freedom of individuals and groups in the society

The Constitution explicitly prohibits discrimination on the basis of religion. Article 19 of the Constitution further protects freedom of speech, expression and association. Additionally, Article 51 imposes a positive duty on citizens to “promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious diversities.” Article 25 seeks to accomplish at least four objectives: declare the equal, non-discriminatory right to freedom of conscience and practice of individual religious beliefs; subject it to the police power of the state on the criteria of public order, morality, and health; affirmatively assert the right to regulate all secular aspects of religious practice; and subsume Hindus, Sikhs, Jains, and Buddhists under a common umbrella for the limited purpose of addressing certain socially obnoxious practices historically prevalent in these four religions.

CONCLUSION AND SUGGESTIONS:

As India moves on to a higher growth path, it becomes important that minorities are not left behind but participate in and share equally in our progress. Equitable and inclusive growth is necessary for the all round progress of the country. The idea of giving some special rights to the minorities is not to have a kind of a privileged or pampered section of the population, but to give to the minorities a sense of security and a feeling of confidence. The Constitution of India provides not only basic rights to the minorities but many rights which conserved their religion, language and culture. Arts 29 and 30 of the Constitution provide Cultural and Educational rights to minorities. The Cultural and Educational rights of minorities incorporated in the Constitution of India basically are balancing approaches to harness a health and prosperous life status for all, including minorities. In a vast country like India in order to provide equality and unity among its citizens, as there is a wide difference between the minority and the majority, special rights should be endowed to minorities so that they can develop their personality to the maximum.

Some of the suggestions for protection of minorities are as:

1. Minorities Directorate should be established and the State Commission should be associated in implementation of the Schemes/ Programmes meant for the minorities.
2. All communities listed as minorities should find representation in bodies that has been constituted for the welfare and development of the minorities.
3. The financial assistance provided to the students of the religious minorities can also be provided to the students belonging to the linguistic minorities.
4. Proper planning should be formulated to disseminate the PM’s 15 Point Programme. In all the states high power coordination committee should be formed with all the concerned departments, which would provide benefits to the women minority communities in starting small scale industries which would in course lead to the welfare of the minority communities as a whole.
5. Minorities Commission should be entrusted with the rights of a Civil Court. One Legal Expert should be appointed with funding from Central Government.

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