



# **Minorities in India**

**PROTECTION AND WELFARE**

**Rajendra Pandey**

# **MINORITIES IN INDIA — PROTECTION AND WELFARE**

*By*

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## **Preface**

This volume represents the efforts of the author to understand the ethnicity and perils of ethnicity in India. The most challenging problem of contemporary India at the fag end of the twentieth century is ethnicity and perils of ethnicity.

In the five chapters that comprise the book, attempts have been made to understand ethnicity in international and national contexts, ethnic group relations that obtain in Indian today, quest of ethnics for national identity and perils of ethnicity that the country confront.

Obviously these five chapters have not been able to treat all aspects of ethnicity and, given the need for brevity and simplicity the author has only been able to make limited incursions into subject.

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**Rajendra Pandey**

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## **MINORITIES : THE INTERNATIONAL SCENARIO**

In plural societies<sup>1</sup> throughout the globe, some people are set apart for a variety of reasons, such as physical features, skin colours, languages, sex, religions, physical handicaps and behavioural patterns. These physical and cultural characteristics provide high social visibility and serve as identifying symbols of group membership. Based on these features, individuals are ascribed in the social structure the group to which they belong. The groups so identified are prevented from participating equally and fully in many domains of social life, experience a limited range of life choices, and encounter more restrictions, prejudices and discriminations than do the dominant group in society. All these groups are minorities.

Our primary focus in this chapter will be on the minority groups in general. In doing so, we will first define 'minority group' and examine variety of minority situations. We will, then, concentrate on prejudice and discrimination. Making these discussions as springboard, we will examine minority problem at the international plane.

### **MINORITIES : THE CONCEPTUAL CONTEXT**

#### **Conceptualizing Minority**

Etymologically, 'minority' is a compound of Latin word 'minor' (Vid. *Etymological Dictionary of the English Language*, 1961: 377) and suffix 'ity'. 'Minor' means lesser, smaller, the smaller in number of the two aggregates that together constitute a whole. Thus, the derivative and original meaning of the word is given in statistical terms. And, merely numerical meaning, even though useful, does not serve social sciences purpose well and, hence, we must search for alternative sources for the meaning of 'minority'.

It would be better to begin our search for meaning of 'minority' with the dictionary—the arbiter of the most definitional disputes. *Webster's Third New International Dictionary* (1968: 1440) defines "minority as a group characterized by a sense of separate identity and awareness of status apart from a usually larger group of which it forms or is held to form, a part." *Webster's New Dictionary and Thesaurus* (1989: 426) clarifies that "minority is a racial, religious or political group that differs from the larger controlling group". *The Oxford English Dictionary* (1933: 479) states that minority is "the condition or fact of being smaller, inferior, or subordinate." *Collins Cobuild English Language Dictionary* (1988: 920-21) defines that "The minority of people or things in a larger group is a number of them that form less than half of the larger group; used especially when the number is much less than half of the larger group..... If a person or group is *in a minority* or *in the minority*, they belong to a number of people or things that form less than half of the larger group ... A minority is a group of people of the same race, religion, etc., who live in a place where most of the people around them are of a different race, religion, etc."

The dictionary definitions, thus, delineate four different criteria characterizing minority: (1) *Statistically*, a minority group is smaller in number less than half of the larger group; (2) *psychologically*, the minority group nurtures a sense of separate identity and awareness of status apart from a usually larger group of which it is part; (3) *socio-culturally*, a minority is a group of people of the same race, religion, etc., who live in a place where most of the people around them are of a different race, religion, etc. That is to say, it is a racial, religious, or political group; (4) *situationally*, minority is the condition or fact of being smaller, inferior or subordinate to the larger controlling group. The definitional properties of minority are at once numerical, psycho-socio-cultural, and situational in dictionary delineation of the term.

It may be mentioned in passing that among those who do not study minority groups, the common tendency is to take the word 'minority' literally and simply. In its *literal and simplistic view*, the term 'minority' is used to say that a minority is small group of people who live in the midst of larger group. And, at least, two defects make the simple definition useless. One, groups are not "naturally" or "inevitably" differentiated. Customs either of the minority or the majority or — usually both—must *define* them as differentiated as minority groups, which entails a set of attitudes and behaviours. Two, relative numbers in and out of the group have not been found to be definitionally important. Thus, it is necessary

to counterpose a 'minority' to a dominant group in terms of power, or to abandon the term 'minority' altogether and call it a 'subordinate' group. We, therefore, abandon the literal and simplistic view of minority.

We say finis to the dictionary definition and simplistic interpretation of minority. And, in order to explore a broader meaning of 'minority group', we look first at encyclopaedic elucidation. According to *The New Encyclopaedia Britannica* (1986, Vol. 8: 169),

"Minority" is a culturally, ethnically, or racially distinct group living within a larger society.

As the term is used by politicians and social scientists, a minority is necessarily subordinate to dominant group within a society. This subordinancy, rather than a numerical minority, is the chief defining characteristic of a minority group.....

In sociological parlance, a minority must be a distinct social group. As such it has specific rules of membership and prescribed guidelines of cultural behaviour that distinguish it from the majority. It must have specific, easily recognizable characteristics that mark it off from the rest of society.

In their separation from the dominant forces of a society, members of a minority group usually are cut off both from a full involvement in the workings of the society and from an equal share in the society's rewards. A minority group is typically poorer and politically less powerful than the dominant group, although certain exceptions exist."

*International Encyclopaedia of the Social Sciences* has following to say about the meaning of the minority group:

"Contemporary sociologists generally define a minority as a group of people—differentiated from others in the same society by race, nationality, religion, or language—who both think of themselves as a differentiated group with negative connotations. Further, they are relatively lacking in power and, hence, are subjected to certain exclusions, differentiations, and other differential treatment. The important elements in this definition are a set of attitudes—those of group identification from within the group and those of prejudice from without—and a set of behaviours—those of self-segregation from within the group and those of discrimination and exclusion from without" (Rose, 1968: 365).



This, then, suggests that the encyclopaedic elucidation of the word 'minority' is all-encompassing. It is not confined merely to numerical aura. Rather, it is emphasized that minority is culturally, ethnically, racially, religiously, or linguistically distinct group in the midst of a larger society. A minority is necessarily subordinate to dominant group within a society and subordinancy rather than numerical minority is the principal defining characteristic of a minority group. A minority must be distinct social group and must have easily recognizable characteristics that mark it off from the rest of society. A minority has defined rules of membership and cultural behaviour. The members of a minority group are denied full participation in the working of society and equal share in the society's rewards. A minority group is relatively poor, politically less powerful, subordinate to dominant group of a society. The important element in the definition of minority is a set of attitudes and set of behaviours.

Only this much about encyclopaedic elucidation of minority group. The next attempt will be to look at international forums to locate the meaning of minority group.

The treaties and declarations made under the auspices of the League of Nations provided protection for "racial, religious or linguistic minorities". But in practice, these words were found to be imperfectly descriptive of the group whose protection was intended. The Sub-commission on Prevention of Discrimination and Protection of Minorities was set up under the Human Rights Commission that drafted *Universal Declaration of Human Rights* approved by the U. N. General Assembly in 1948. Specifying minorities, the United Nations Sub-commission on Prevention of Discrimination and Protection of Minorities states that included in minorities are:

"Only those non-dominant groups in a 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" (UNO, 1952:400).

Notice that the United Nations Sub-commission on Prevention of Discrimination and Protection of Minorities excluded the ideas both of race and of inferiority from its definition. It rather insisted that the minority must include a number of persons sufficient by themselves to develop these characteristics and that its members must be loyal to the country of which they may be national (U.N.O., 1952: 490). This definition of minority, says Singh (1982: 5), may be considered to be the

most acceptable definition for purposes of International law. "Minority in international law is population group with a characteristic culture and sense of identity occupying a subordinate political status" (*The Columbia Encyclopaedia*, 1963: 1384).

In what has gone before, we have a glimpse of dictionary definition, simplistic view, encyclopaedic elucidation and international interpretation of 'minority group'. We turn now to ponder over the legal and constitutional interpretation of the term.

*The Constitution of India* uses the term 'minority/minorities' in four of its Articles namely, Articles 29(1), 30, 350 - A, and 350 - B. But it neither defines the term 'minority' or 'minorities' nor delineates criteria for determining minority. In order to bring a case under Articles 29 and 30 of the *Constitution*, a community has first to establish its character as linguistic, scriptural, cultural, or religious minority. Thus, there is no definite definition of or criteria for determining minority in the *Constitution*.

In absence of any constitutional guideline, we are left only with legal interpretation of 'minority'. On the meaning of the word 'minority', the Supreme Court felt that though it was easy to say that minority community means a community which is numerically less than 50 per cent, it left part of the question unanswered, namely, 50 per cent of what? Is it 50 per cent of the entire population of India or 50 per cent of the population of a State forming a part of the Union?

The State of Kerala contented that in order to constitute a minority which may claim the fundamental rights guaranteed to minorities by Articles 29 (1) and 30 (1) of the *Constitution of India*, the person concerned must numerically form a minority in the particular region in which the educational institution in question is or is intended to be situated. The Supreme Court opined that that was not satisfactory test and observed: "Where is the line to be drawn and which is the unit which will have to be taken?" Are we to take as our unit a district or a subdivision or a *taluka* or a town or its suburbs or a municipality or its wards?" (AIR, 1958), Explaining further the court pointed out that in many towns persons belonging to a particular community flocked together in a suburb of the town or ward of the municipality and, thus, Anglo-Indians or Christians or Muslims who might congregate in one particular suburb of a town or one particular ward of a municipality and form a majority there, though in the context of the whole of the State population, they might be a minority. Citing similar other illustrations, the Supreme Court proved

fallacious the argument of the counsel for the State of Kerala that local authority might be taken as a unit and rejected it. The Court, then, without finally deciding the meaning of 'minority', observed:

"We need not, however, on this occasion go 'further' into the matter and enter upon a discussion and express a final opinion as to whether... the existence of a minority community should in all circumstances and for purposes of laws of that State be determined on the State basis only when the validity of a law extending to the whole State is in question or whether it should be determined on the basis of population of a particular locality when the law under attack applies only to that locality" (AIR 1958).

The Supreme Court, therefore, did not decide the issue as to what is meant by a minority community or how it is to be ascertained. However, the Court did decide that when an Act of a State Legislature extends to the whole of the State, the minority must be determined by reference to the entire State and any community, linguistic or religious, which is numerically less than 50 per cent of the entire State population may be regarded as a minority for purposes of Article 39(1).

The Supreme Court confirmed their views in the above reference later (AIR, 1971). It observed that the religious or linguistic minorities have to be determined only in relation to the particular legislation sought to be impugned, that is, in the case of a State Legislature enacting the legislation these minorities have to be determined in relation to the population of the State. Further, the Court explained the meaning of a *linguistic minority* for purposes of Article 30(1) as follows:

"A linguistic minority for the purpose of Article 30(1) is one which must, at least, have a separate spoken language. It is not necessary that the language should also have distinct script for those who speak it to be a linguistic minority. There are in this country some languages which have no script of their own, but nonetheless, those sections of the people who speak that language will be a linguistic minority entitled to the protection of Article 30 (AIR: 1965).

It transpires from the judicial decisions that the statistical criterion has prevailed with the Supreme Court so far. The various High Courts have also followed the same criterion in determining whether a particular group is a 'minority' community or not. In *A. M. Patoni Vs. E. C. Kesavan* (AIR, 1965: 76), the Kerala High Court was called upon to determine whether the Christian community was a minority community in the State of Kerala. Justice Madhavan Nayar said:

"The word 'minority' is not defined in the Constitution, we must hold that any community—religious or linguistic—which is numerically less than 50 per cent of the population of the State is entitled to the fundamental rights guaranteed by this Article (A. I. R., 1965: 76).

Requirement of residence is not necessary for the entitlement of Constitutional protection to minorities. Justice Shah, delivering judgment on behalf of himself, Chief Justice Hidayatullah, Justice Ramaswami, Mitter and Grover in *S. K. Patro Vs. State of Bihar* suggests that it is not necessary that a minority should be citizen of India to be entitled to the protection of Article 30, i.e., the right to establish and administer educational institutions of their choice;

"The protection of the rights under Article 29 may be claimed only by Indian citizens. Article 30 guarantees the right of minorities to establish and administer educational institutions: the Article does not expressly refer to citizenship as a qualification for the members of the minorities".

The learned Judge further observed:

"It is true that the minority competent to claim the protection of Article 30(1) and on that account the privilege of establishing and maintaining educational institutions of its choice must be a minority of persons residing in India. It does not confer upon foreigners not resident in India the right to set up educational institution of their choice" (AIR, 1970).

Accordingly, in order to claim the benefit of Article 30(1), the members of the group termed 'minority' need not be citizens of India. The only requirement is that they should be residents in India. However, the minimum period during which the members should have been resident in India is not prescribed. Nevertheless, the members should be resident of the Indian Union and not resident of a particular State against whom the protection of Article 30(1) is being claimed. Thus, while determining minority at the State levels, perhaps it may not be arguable that the members claiming the protection of Article 30(1) should be resident of that particular State. Therefore, persons residing in, say, Punjab, may establish and administer educational institutions in another State and claim the protection of Article 30(1) provided, of course, they are minority in the latter State.

Explaining the *religious minorities* it was observed that the only or the main basis of a minority should be its adherence to one of the many religions and not a part or sect of the religion and that other characteristics of the minority are subordinate to the main feature, namely, its separateness because of its religion. In *A. S. E. vs. Director of Education, Delhi Administration*, it was held by the High Court of Delhi that the word 'religion' in Article 30(1) is confined to the well-defined religions of India, such as, Hinduism, Islam, Sikhism, Christianity, Jainism, etc., and it does not cover a sect or part of the religion (A. I. R. 1976). Arya Samaj was, therefore, regarded as a reformed sect of Hindu way of thinking and as such a sect or a part of Hinduism. On the basis of these observations, it may be stated that the Catholics and the Protestants among Christians or the Shias or the Ahmadiyas among the Muslim, or the Namdharis among the Sikhs cannot be treated as a 'religion' for purposes of Article 30(1) (A. I. R. 1979).

To sum up: the term 'minority' has not been defined as yet clearly even in law. The Courts have relied on statistical criterion of being less than 50 per cent of the entire State population. Another criterion is the religion and language.

We may now look at the social science construction of the term 'minority group'. In the words ascribed to Brown and Roucek (1937).

"Minorities are individuals and groups that differ or are assumed to differ from their 'dominant' social group. The differences, although varying in degree, are not only in terms of race, religion, nationality and State allegiance but also in the composite cultural patterns. However, such differences in and of themselves are not sufficient to make a group a minority without accompanying attitude of 'dominance' and 'subservience' consciously accepted and tacitly assumed."

J. A. Laponce (1960: 5) defines a minority group with somewhat different emphasis:

"A minority is a group of people, who, because of a common racial, linguistic, religious, or national heritage which singles them out from politically 'dominant group' fear that they may either be prevented from integrating themselves into the national community of their choice or be obliged to do so at the expense of their identity" (Laponce, 1960).

It is obvious then that in social sciences the term 'minority group' is not defined as statistical concept of less than 50 per cent. Rather, in the definition, the test of 'dominant' and dominated groups are used to describe 'minority' and 'minority group', respectively instead of statistical criterion. So much stress is laid on the concept of 'dominant' and dominated' that one definition even goes to the extent of saying that there can be no minority, even when there are distinguishing characteristics in terms of race, religion, etc., unless there is an accompanying attitude or 'dominance' and 'subservience' consciously accepted or tacitly assumed (Singh, 1976; Jain 1972; Singh 1970: 27).

It is argued here that test of less than 50 per cent ought to be replaced by the test of 'dominant' and 'dominated' groups. The Commission for Linguistic Minorities (RCLM) also adopted the definition of minority similar to this. In its wisdom, a 'dominant' group does not necessarily mean a group which is more than 50 per cent (RCLM, 1958-59:37). It generally means the larger group. Such a larger group may be less than 50 per cent. This test is more appropriate and desirable, especially in a multi-lingual State like India. Because in such a country it is very likely that no group may be less than 50 per cent (RCLM. 1958-59) and, thus, all groups may come under the umbrella of Articles 29 and 30 without there being a majority community against whom presumably the concerned provisions of the Constitution seek to give protection to minorities.

The notion that the minority group is outnumbered by the majority or dominant group is not always true. There may be instances where the reverse is the case, e.g., in the Union of South Africa, less than four million white Europeans dominated more than thirteen million coloured people and treated both the Indian minority and the African minority as minorities. In his classic analysis of minority groups, Louis Wirth (1945: 347) defines a minority as:

"A group who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who, therefore, regard themselves as objects of collective discrimination. The existence of a minority in a society implies the existence of a corresponding dominant group with higher social status and greater privileges."

Furthermore, minority status carries with it an exclusion from full participation in the life of society. At the world Congress of Sociology held in Zurich, Switzerland, in September 1950, Louis Wirth emphasized the

inferior status by defining minority as a “group distinguished from the rest of society by racial or cultural characteristics (which have) become the object of differential and inferior treatment, and (have) developed a consciousness of their inferior status” (Wirth, 1951: 400).

Some social scientists, like A. M. Rose and C. B. Rose, have rejected any purely numerical definition and have given special emphasis to the factor of *opposition*. To them, the mere fact of being generally hated because of religious, racial, or national background is what defines a minority group (Rose and Rose, 1948: 3).

To be sure, the element of differential treatment emphasized by Wirth and Roses does not find favour with R. A. Schermerhorn (1949: 5), according to whom

“Minorities are such groups within a culture which are distinguished from the dominant group by reason of differences in physiognomy, language, custom, or culture patterns (including any combination of these factors). Such sub-groups are regarded as inherently different and not belonging to the dominant group; for this reason they are consciously or unconsciously excluded from full participation in the life of the culture.”

Distinct from the emphasis on distinctive social, cultural religious, or linguistic characteristic of a group or sub-groups as the basis of their minority status, the *subjective element of national consciousness* has been stressed by others. But, in such a case, it may be noted that without some easily recognizable characteristics distinguishing the minority group from the rest of the population, and, therefore, a minority, in such a case is likely to get rapidly absorbed and lose its identity. In case such absorption is not resisted by either the minority itself or the majority of the population, the term ‘minority’ is not applied to such groups. (Wrights, 1969, Vol. 19: 206).

In summary, then, sociologists have referred to minority groups of distinctive national and cultural characteristics, emphasized subjective element of national consciousness which might characterize minorities not distinguished from the rest of the population by obvious features of language, dress, habits, or physique. Subordinancy of the minority to the dominant group of a society is most important feature of minority group. It is a distinct social group with specific rules of membership and distinct cultural behaviour that distinguish it from the majority. The minority is differentiated from others in the same society by race, nationality,

religion, or language. The sociologists have tried to summarize the characteristics of minority groups. Wagley and Harris (1964) pointed out to *five properties* of the minority group.

1. A minority is a social group whose members experience discrimination, segregation, oppression, or persecution at the hands of another social group—the *dominant group*—as result of the power differential. Equally important, they are the source of the dominant group's advantages, since the oppression of one people confers privilege and status on another.
2. A minority is characterized by physical or cultural traits that distinguish it from the dominant group. By virtue of these traits, its members are lumped together and "placed" in less desirable positions in the social structure.
3. A minority is a self-conscious social group characterized by a consciousness of oneness. Its members possess a social and psychological affinity with others like themselves, providing a sense of *peoplehood*. This consciousness of oneness is accentuated by the members' common suffering and burdens.
4. Membership in a minority group is generally not voluntary. It is an ascribed position, since an individual is commonly born into the status. Thus a person does not usually choose to be black or white.
5. The members of a minority, by a choice or necessity, typically marry within their own group (endogamy). The dominant group strongly discourages its members from marrying members of the minority group, and usually scorns those who do. The minority may encourage its members to marry among themselves to preserve their unique cultural heritage (Vander Zanden, 1986 : 190).

Keeping in view the above properties, Williams (1964) defines a *minority group* "as conscious population with hereditary membership and a high degree of in-group marriage which suffer oppression at the hands of a dominant segment of a nation-state."

A minority group is any culturally or physically distinctive, self-conscious social aggregate that is subject to political, economic, or social discrimination by dominant segment of a surrounding political society.



In other words,

1. A minority is a social grouping that experiences a variety of disabilities in the form of prejudice, discrimination, segregation, or persecution (or any combination of these) at the hands of another group.
2. The disabilities (prejudice, discrimination, and, so forth) of minorities are related to special characteristics that its members share either physical or cultural or both, which the dominant group hold in low esteem (Hebding and Glick, 1987: 254).

In what preceded, we had a glimpse of dictionary definition, encyclopaedic elucidation, international agency's clarification, constitutional and legal interpretation, and sociologists' exposition of minority group. In our attempts to define 'minority group', concepts of 'culture', 'race' and 'ethnicity' were used, but we have not clarified them. Since racial and ethnic groups have *potential* for carving their own independent nation from within existing State and in context of ethnic relations in plural society the term 'minority' is often substituted for the term 'ethnic group' (e.g., Schaefer, 1979: 4; Schermerhorn, 1978: 13), it is necessary to understand them before we proceed.

### **SPELLING OUT 'CULTURE' 'RACE' AND 'ETHNIC GROUP' CULTURE**

Culture refers to the social heritage of a people—those learned patterns for thinking, feeling and acting that are transmitted from one generation to the next, including the embodiment of those patterns in material items. It includes both *non-material culture*—abstract creations like values, beliefs, symbols, norms, customs, and institutional arrangements—and *material culture*—physical artifacts or objects like stone axes, computers, loincloths, hammocks, and domed stadiums. *Society* refers to a group of people who live within the same territory and share a common culture. Very simply, culture has to do with the customs of a people, and society with the people who are practising the customs. Culture provides the fabric and enable human beings to interpret their experience and guide their action, whereas society represents the networks of social relations that arise among a people" (Vander Zanden, 1986: 29).

The items that form a culture tend to constitute a consistent an integrated whole. In the words of Sumner (1906: 5-6), the parts are "subject to a strain of consistency with each other". However, perfect integration is never achieved. Two cultures could have identical inventories of items and yet be substantially different (Kluckhohn, 1960).