

MINORITIES: CONCEPTUALIZATION AND CONTEXTUALIZATION OF ‘OTHERS’

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Abstract—The year 2020 for India has been a conundrum for identified minorities. Violence, alleged discrimination, introduction of contentious policies and legislations such as Citizen Amendment Act, 2019¹, Prohibition of Unlawful Religious Conversion Ordinance² have been on the headlines of not just national but international media as well. India, however, being secular in character, has dearth of laws and practices that promote the essence of secularity and execution of harmonious existence of people of different castes, creeds, race, sex. Instances of lynching, religious hate crimes, riots have blotted Indian history on number of occasions, such as 1984 Sikh riots, 1992-1993 communal violence in Mumbai, 2002 violence in Gujarat, 2008 Orissa violence against Christians, mass violence in Muzaffar nagar in the year 2013 and many more. The common feature of all these riots, discriminatory behaviour and lynching is the targeted “others”, identified in law as “minorities”, which gradually took a communal shape. The article argues that the act of labelling a class finds its roots in dominance creating a flywheel effect, i.e dominance gives birth to classes and these classes give birth to discrimination and then discrimination creates dominance. The dominance on the first instance comes from a place of strength that has overpowered the rest creating

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¹ The Citizenship (Amendment) Act, 2019 (India).

² The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020 (India).

two classes, one that dominates and the other that is being exploited. This article explores the conceptualization, definition, and usage of the term “Minorities”. The research is presented to investigate into the idea of this “flywheel” effect, i.e effectiveness of the process of identifying minority and labelling them including the investigation on the mandate of labelling a particular group as a “minority”. Several governments and international organizations have been working in this direction and over the period of time several theories and policies have evolved. This paper is a critique to such policies and theories.

Keywords: Minorities, Conceptualization, Constitutional Assembly Debates, Contextualization, Flywheel Effect

I. INTRODUCTION

American Sociology’s role in coining the word “minority” and giving legitimacy to it is enormous. The existence of racial differences and discrimination in US institutionalized the idea of minority and result being the absence of any historical explanations of slavery, discrimination and other casual social forces.³ Sociologists time and again have articulated the characteristics and scope of the word “minority” as a category which is “*subordinate and possessing cultural or physical qualities not approved or preferred by the larger population.*”⁴ The definition here is based on the premise that this category of minority shared sense of group identity either because of their culture or physical attributes. However, the same stands true for majority as well or any social group for that matter. The only difference being that the cultural possession or physical attributes of majority are shared by larger section of the society and well accepted or approved. The initial definitions emphasized that the minorities just didn’t have the sense of group identity but also that the group identity arose from sense of “objects of collective discrimination.”⁵ The author described “minority” as a “sociological euphemism” for the people who are on the receiving end of the incalculable exploitation, injustice and hardships.⁶

³ Doris Wilkinson and University of Kentucky, “Rethinking the Concept of ‘Minority’: A Task for Social Scientists and Practitioners”, 27(1) *The Journal of Sociology and Social Welfare* (JSSW), Western Michigan University (2000).

⁴ Louis Wirth, *The Problem of Minority Groups* (In Ralph Linton (ed.), *The Science of Man in the World Crisis*, New York, Columbia University 1945).

⁵ *Ibid.*

⁶ David Nibert, Note on Minority Group as Sociological Euphemism, 3(3) *Race, Gender & Class*.

II. THE MAJOR DRAWBACKS ASSOCIATED WITH THE CONCEPT OF MINORITY

Historically, the word “minority” belonged to few races or ethnic populations such as African Americans. Eventually it extended to occupationally subordinate groups (Women), multiracial and economically weak individuals such as unemployed, poor etc.⁷ Lately, sexual orientation, physically challenged are being similarly classified. In furtherance, the concept epitomizes one of the acceptable forms of politically correct language to address these categories of people. As highlighted by Nibert” *“sociologists have been reluctant to call ‘minority groups’ oppressed because such a perspective is outside the range of accepted political discourse.”*⁸

A. Conceptualization & Contextualization of Minority in India

India is renowned for being home to diverse culture and population and our Indian Constitution is secular in character to facilitate harmonious existence of the diverse group. The drafting committee not only recognized this diversity but also reflected upon the then prevailing socio-political condition of certain communities and groups by giving them certain constitutional privileges. Before investigating into the constitutional provisions and judicial stance on the term “Minority” it is quintessential to look into the constitutional debates and profile of the committees who drafted these provisions in the Constitution.

The Constituent Assembly has made itself assertive during the final years of British India.⁹ It got elected by the provincial assemblies of British India comprising of three groups, “Muslim-majority” areas in the north-west and north-east and the rest being “Hindu-majority” provinces.¹⁰ This could be the seeding stage of the demarcation between majority and minority within in India. The britishers were the first to introduce separate electorates for the muslim community by way of Indian Councils Act, 1909.¹¹ The measure was criticized by Congress. However, three years later, British by way of Government of India Act, 1919 extended separate electorates to Sikhs, Anglo Indian and Christians as well.¹² In response, the congress-league curated Nehru Report 1928 and asserted “there shall be no electorates” and proposed

⁷ *Ibid.*

⁸ *Ibid.*

⁹ K.P. Singh, “Role of the Congress in the Framing of India’s Constitution”, 51 (2) The Indian Journal of Political Science, 153-171(1990).

¹⁰ *Ibid.*

¹¹ Vineeth Krishna E, “Affirmative Action #1: Separate Electorates in Indian Constitutional History”, Constitution of India, last accessed 17 September 2021. <https://www.constitution-ofindia.net/blogs/affirmative_action__1__separate_electorates_in_indian_constitutional_history>.

¹² *Ibid.*

reservation of seats of muslims in provinces they are in minority.¹³ The congress leaders holding 202 seats ensured that minority groups were given adequate representation in the “general” category.¹⁴ These also included non-Congressmen who are seen as leaders of their respective communities including Dr. B.R. Ambedkar, the community leader for Scheduled Caste (SC) along with Frank Anthony, representative for Anglo-Indian.

30% of the post-partition Constituent Assembly comprised of minorities representatives.¹⁵ This also reflected the demographic structure of India backed by the 1951 census, which reflected that 37.8% of the population were either non-Hindu or belonged to the SCs and STs.¹⁶ While members from non-Hindu groups such as Christians or Parsis supported “Unity in diversity” viewpoints to promote common civil identity irrespective of religious differences, Muslims and Akali Sikhs advocated for special provisions for religious minorities, however, did not find much support.¹⁷ Leaders such as Sardar Patel, K.M. Munshi and Rajendra Prasad were sensitive towards the majoritarian Hindu sentiments.¹⁸ The result being that the Constitution held a statutory recognition to minorities (even though not defining it), thereby, implicitly accepting and announcing the existence of a majority.

B. Definition of “Minority” Under Indian Law

It wouldn't be wrong to state that the concept of minority in India was first practiced and then brought to books for governance purposes. In India, the majority demarcated the difference between minority population and majority population. This demarcation was made by the makers of the Indian Constitution on the basis that a respective group has been subjected to continuing and disproportionate “*domination of almost every position of privilege by the upper castes and the majority community.*”¹⁹ This is clear evidence of the first stage of the flywheel effect that labelling or demarcation of ‘minority’ is the result of continued domination from the position of privilege by the upper caste. The flywheel theory being proposed in the paper brings out a vicious circle of dominance where, it is being proposed that dominance is mostly executed from a position of strength by an individual or group of individuals. The classification of classes or categories are mostly done by the individuals

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Prakash Chandra Upadhyaya, “The Politics of Indian Secularism”, *Modern Asian Studies* 26(4), 845 (1992).

¹⁶ James Chiriyankandath, *Constitutional Predilections*, India Seminar, last accessed at 3 September 2021 <<https://www.india-seminar.com/1999/484/484%20chiriyankandath.htm>>.

¹⁷ *Ibid.*

¹⁸ *Supra* at 11

¹⁹ David Moose, “Caste and Development: Contemporary Perspectives on a Structure of Discrimination and Advantage”, *World Development Review*, 110 (2018). <<https://www.sciencedirect.com/science/article/pii/S0305750X18301943>>.

holding dominant position in the society. This classification often leads to discrimination by segregation and identification of being different from the rest. And hence this discrimination again creates a platform of dominance by those either in power or numerically more in strength. Similarly, in Indian context, fulfilling the first two stages of the theory, the minority were recognized and classified by the once in majority in order to safeguard them and to uplift them to bring them at par with the majority, the issues faced by minority were deliberated and discussed in length by the members of the Assembly.

The Indian Constitution uses the word “minority” or its plural form – “minorities” in the Articles 29, 30, 350 A and 350 B, however, does not give a definition to it. One can nevertheless infer the meaning of the word minority from Articles 29 and 30. As these Articles, when read together, reflects that the term “minority” in the Constitution primarily signifies religious and linguistic minorities²⁰ in the country. As reflected in many researches, the Indian Constitution has conceived the word “minority” as an open category in order to protect the interests of several “religious”, “linguistic” & “culturally distinctive groups”. The “*National Commission for Minorities (NCM)*” was established in May 1993 adhering to the United Nations Declaration of 18th December 1992²¹ to protect the existence of minorities. Unfortunately, instead of giving the definition and ambit of the word minority, Sec 2(c) of the “*National Commission for Minorities Act, 1992*”, defines “minority” as a “community notified as such by the Central Government”²². The Central Government in the year 1993 & 2014, by way of notifications has notified 6 religious communities, namely, “Muslims”, “Christians”, “Sikhs”, “Buddhists”, “Parsis” & “Jains” as minorities in India²³. The Act gives absolute power to Central Government to decide who are minorities in India and the NCM holds no power in deciding the same. This administrative move of the Central Government of identifying ‘national minority’ led to serious uproar as the Constitution does not identify any religious or linguistic or cultural group as minority. Thus, in India there is no definition of the word “minority” neither in the Indian Constitution nor

²⁰ *Protection of interests of minorities” and confers on citizens, in any part of the India, “having a distinct language, script or culture” the right to “conserve the same.” This clause also provided that no citizen would be denied “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.*

²¹ States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity.

²² “Minority”, for the purposes of this Act, means a community notified as such by the Central Government.

²³ Saika Sabir, “Constitutional Rights of Minorities: A Critical Analysis”, Centre for Study of Social Exclusion and Inclusive Policy, National Law School of India University (NLSIU) Bengaluru, <<https://dom.karnataka.gov.in/storage/pdf-files/Sir%20Syed%20Ahmed%20Khan/CONSTITUTIONAL%20RIGHTS%20OF%20MINORITIES%20-%20by%20Saika%20Sabir.pdf>>.

in any other law and the adjudication of the same is kept reserved with the Central Government.

C. Judicial Trend

Hon'ble Supreme Court in the year 1958 in *Kerala Education Bill, 1957, In re*²⁴, discussed what is "minority" and while answering to that question stated that in common parlance minority is anything which is less than 50% however, the pertinent question that remains is 50% of what? The state population or the countries population? The question was later addressed by the apex court in the year 1971 in *DAV College v. State of Punjab*²⁵, where the hon'ble court stated, "*religious or linguistic minorities are to be determined only in relation to the particular legislation which is sought to be impugned; if it is State Legislature these minorities have to be determined in relation to the population of the State.*"²⁶ Later, the Apex Court in *TMA Pai Foundation*²⁷ stated that the word 'minority' in the "Article 30 of the Indian Constitution" refers to linguistic and religious minorities as "*reorganization of the States in India has been on linguistic lines, therefore, for the purpose of determining the minority, the unit will be the State and not the whole of India.*"²⁸ Therefore, the word minority in Article 30 of the Constitution has to read as state minority.

This definition of the minority has been the most exhausting definition laid out, stating that the components of "minority" should be decided on the basis of state. The judgment was well received however, it entailed chain of litigation by several groups and communities for availing the title of minority. For instance, in the year 2005 the Jain community sought directions to notify "Jains" as minority community under "Section 2(c)" of the Act. The court in the case²⁹ held that, if the concept of minorities laid down in TMA Pai Foundation case is encouraged then it will promote bifurcation on the basis of religious diversities to attain "*special protections, privileges and treatment as part of constitutional guarantee.*"³⁰

Recently, in the year 2020 a PIL was filed before the Hon'ble Supreme Court of India to declare "Hindus as minorities in 8 states in India" based on the Hindu populace in these states.³¹ These states are, "Lakshadweep, Nagaland, Mizoram, Meghalaya, Arunachal Pradesh, Manipur, Punjab and Jammu & Kashmir."³² The petitioner has challenged constitutional validity of Section

²⁴ *Kerala Education Bill, In re*, AIR 1958 SC 956 : 1958 INSC 20.

²⁵ *DAV College v. State of Punjab*, (1971) 2 SCC 269 : AIR 1971SC 1737.

²⁶ *Ibid.*

²⁷ *TMA Pai Foundation v. State of Karnataka*, (1994) 2 SCC 734 : AIR 1994 SC 2372.

²⁸ *Ibid.*

²⁹ *Bal Patil v. Union of India*, (2005) 6 SCC 690.

³⁰ *Ibid.*

³¹ *Ashwini Kumar Upadhyay v. Union of India*, W.P. (C) No. 836 of 2020 (pending).

³² *Ibid.*

2(f) of The National Commission for Minority Educational Institutions Act, 2004³³ and Section 2(c) of the NCMA, 1992.³⁴ The petition relying on 2011 census data argues that as per the definition of minority laid down in TMA Pai Foundation case and precedence set thereon, Hindus are minorities in the above mentioned however, they are not considered one due to which they are not able to avail the benefits of Union Government's Rs.20,000 scholarships.

During the Constitutional Assembly Debates, KM Munshi used the term minority as 'National Minorities'.³⁵ He showed aversion for state minorities, as he feared that this *will result in distortions in minority rights*.³⁶ The conception of minority being followed today in India is not in line with the spirit of the Constitution, and essence of the drafting minds which envisaged 'national minorities' and not minorities within a State or region, and promotes a '*restrictive conception of minority rights*'.³⁷ Other than the nation disintegration based on religion or language the state minorities concept has also been used as a tool to forward political interests. For instance, the Gujarat state government declared "Jains" as minorities just before the general election in spite of Supreme Court Judgement that states that Jains cannot be minority as most of them are from affluent class and do not require protection of the Constitutional scheme for the minorities. Apex Court while deciding *Ahmedabad St. Xavier's College Society v. State of Gujarat*³⁸, stated that minority status is given to "non-dominant group", this can be treated as addition to the prevailing definition of the word 'minority'.

The theory of flywheel effect finds its foundation in the Bal Patil case where Supreme Court reiterated that the constitutional goal is to develop citizenship where no fear prevails and "Integrity and unity of India" remains intact by gradually eliminating the bifurcation of minority and majority classes. As the atmosphere of mutual fear and distrust in the bifurcated classes has resulted in evasion of integrity of the country. Literature reflects that the minority commission was established to promote integrity and unity of India by protecting and uplifting 'identified minority' classes and eventually eliminating the labels of minority and majority classes. The petition by *Ashwin Upadhyay*³⁹ rightly argues that, "*It is duty of the State to move beyond the minority-majority binary communal politics, which ironically passes for secularism in*

³³ "Minority", for the purpose of this Act, means a community notified as such by the Central Government.

³⁴ *Ibid.*

³⁵ *Supra* at 12.

³⁶ *Supra* at 12.

³⁷ Hasan, Zoya, "Defining India's Minorities", *The Hindu* (14 July, 2007).

³⁸ *Ahmedabad St. Xavier's College Society v. State of Gujarat*, (1974) 1 SCC 717 : AIR 1974 SC 1389.

³⁹ WP(C) No. 836 of 2020, (pending).

*this country, has been the bane of our democracy. It can be traced back to the British policy of divide and rule*⁴⁰, the result being was partition of the country.

As highlighted in the previous section of the article, the Constitution of India does not explicitly define the word “minority” however, it has been inferred by above judicial trend and various theories put forth by researchers that Article 29 and 30 when read together signify that the authors of the Indian Constitution intended the word minority to be read in light of religious and linguistic minority. The recent judgments and initiatives of the government have been in direction of not only uplifting the ‘identified minorities’ but also to suppress any exploitation of the privileges covered under the constitution. As highlighted in the above judgments, the demarcation of minority and majority leads to further discrimination. Hence, the reasons for such demarcation has to be resolved and the same should remain a constitutional aid to uplift the underprivileged section of the society and protect their rights and not a political tool in the hands of the administrative to further vested and political interests.

III. THE MAJOR POLICY ISSUES ASSOCIATED WITH THE WORD MINORITY

In order to understand and promote rights of any group, the primary issue that arises is one of defining who and what constitutes that group. Defining a group and its components enables the understanding of a group by drawing and delimiting variables. This differentiates the group from other similar or competing groups in the society. Therefore, in order to understand minority rights and ways to protect it, it is imperative at the very outset to draw a definition of who, or what, makes a minority group. Today the literature is filled with widely accepted academic definitions coupled with a bundle of some less recognized but important definitions of the term ‘minority’. This part of the article gives a critical analysis of the definition proposed and brought to use by various governments, researchers and theorists.

The “Permanent Court of International Justice (PCIJ)” made some efforts in direction of defining the minority community. The same was attempted during the inter war period in order to define the term minority in Greco-Bulgarian case relating to the emigration of the minority communities. While defining the term, the “UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities (PDPM)” referred to PCIJ definition stating that, minority community is a group “*living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions, in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring*

⁴⁰ *Ibid.*

*the instruction and upbringing of their children in accordance with the spirit and traditions of their race and mutually assisting one another.*⁴¹

The above definition reflects that the minority community has traditions, and the education and upbringing of the generations are being done in consonance to the traditional values held by the community. This definition comprises of both the objective criteria such as race, religion and language and the subjective criterion including sentiment of solidarity and mutual assistance. However, the major lacuna in this definition is that the same does not take into account the numerical inferiority and the populace count of the community in the respective country or state.⁴² The numeric count is essential for gathering dominance and non-dominance factors. Another essential critique of the definition is that it does not attach the community to a certain nationality, i.e any community formed of foreign nationals following a tradition and belonging to same race and ethnicity can comprise of minority irrespective of their populace in the region or dominance factor.

However, the above proposed definition was rejected by some members of the “UN Sub Commission of PDPM” and therefore, a Special Rapporteur, Francesco Capotorti was appointed in 1971 with a mandate to analyse the concept of minority and eventually draw an acceptable definition of the word.⁴³ Capotorti submitted his observations in a report⁴⁴ to the UN, which comprised of a thorough survey of several minority groups around the world and based on his analysis he drew a definition:

“A group numerically inferior to the rest of the population of a State, in a non dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”⁴⁵

After the definition proposed by Capotorti, UN had two definitions of one word “minority”. The definition by Capotorti also included both objective and

⁴¹ Commission on Human Rights, Compilation of Proposals Concerning the Definition of the Term ‘Minority’, United Nations (14th November, 1986) <<https://undocs.org/pdf?symbol=en/E/CN.4/1987/WG.5/WP.1>>.

⁴² Dr Kadloor Savitri, “Minorities-The Problem of Definition”, EPGP, <https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/human_rights_and_duties/09_human_rights_of_minorities/01_minorities-the_problem_of_definition/et/7964_et_01.pdf>.

⁴³ *Ibid.*

⁴⁴ Capotorti Francesco, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities. UN Doc., E/CN.4/Sub.2/384/Rev.1 UN Sales No. E.78.XIV.1 (1979).

⁴⁵ *Ibid.*

subjective criteria. The difference between the two definition, and as highlighted in the critique, was inclusion of component of numerical inferiority, non-dominance, and shared sense of common ethnic, religious and linguistic culture. The subject components of the definition comprised of element of solidarity of the group for preserving its cultural, traditional and religious values along with language coupled with willingness to preserve the distinctive identity of the group. This subjective element of the willingness to preserve one's distinctive characteristics distinguishes a minority group from those groups willing to integrate with the majority.

Capotorti's definition of minority has been subjected to criticism in equal measure. Researchers have criticized Capotorti's idea of numerical inferiority and addressed it as an 'arithmetic nonsense' for it doesn't count the abuse herald on the minority group from the in the hands of the majority who exploit their dominance.⁴⁶ Mere numerical inferiority cannot be a measure for determining minority. For the same can be of any size and spread over in a territory in any magnitude. Significance lies in the characteristic, willingness and capability of a group to practice, profess and maintain their traditional and cultural values. A small group incapable of preserving its culture or values should not be extended benefits that comes along with the minority label. Numerical criteria suggested by Capotorti, can potentially give rise to ambiguity in multi-minority country like India "*where no single group forms an ascertainable majority.*"⁴⁷

Another prominent critique of the definition laid down by Capotorti's is its inclusion of the phrase 'nationals of the State'. The same has been subjected to criticism as it exposes minority from different nations who are not recognized by the state to vulnerability. This provides leverage to the State to exclude such group from citizen and its benefits and devoid them any form of protection or privileges. In contemporary era, another thought-provoking scenario is states where the minority is in government. For instance, Iraq, which was ruled and dominated by minority. Do minority community needs protection and privileges when of their own is in power and ruling the majority as well.

Followed by Capotorti and inspired by his definition, another definition was proposed by Jules Dechenes, during the course of the preparation of the Draft Declaration on Minorities in 1985. His definition of minority is:

"A group of citizens of a State, constituting a numerical minority and in a non dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if

⁴⁶ Supra at 38.

⁴⁷ Supra at 38.

*only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law*⁴⁸.

No consensus emerged on this definition either.⁴⁹ The underlining difference between this definition and the one proposed by Capotorti was elimination of the phrase “numerically inferior to the rest of the population of state” that gathered enormous criticism. However, the definition only eliminated the objectionable phrase the problem of numeric representation still persisted in absence of no absolute number to determine minority. Similarly, Dechenes used ‘citizens’ in place of ‘nationals’ (of a State), which helped him in not attracting any criticism however, it still did not address the issues faced by minorities who are dismembered by their own state.

Currently, the only legally binding provision for minorities that defines the word “minority” at the international level is “Article 27 of the International Covenant on Civil and Political Rights (ICCPR).”⁵⁰ This definition entails some bigger issues pertaining to the notion of culture. It adds to the existing issues in determining as to which culture or cultural rights held by a community be understood as minority rights that require protection.

In common parlance, the expression “minority” is referred to as group of individuals comprising less than (at least) half of the population and differ from the predominant section in race, religion, traditions and culture, language, etc. It is of utmost importance to recognize the characteristics of the expression “minority” in order to recognize a community as one. With the definitions suggested in the above section by various theorists and laws makers, following characteristics can be taken into account to draw a conclusion if a particular set of population may fall under the category of minority in a questionable geographical area:

- a) Citizen of the country- It is only fair and administrable to recognize only citizens of the country as minority because foreign nationals or non-residential nationals by default will be outnumbered and do not carry intention to reside in the country in order to avail the benefits of minority status. Their rights and duties are protected by other prevailing laws and Indian Constitution itself.

⁴⁸ Deschênes, Jules. Proposal Concerning a Definition of the Term ‘Minority’, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, UN Doc. E/CN.4/Sub.2/1985/31.

⁴⁹ Thornberry Patrick, *Self-Determination, Minorities, Human Rights: A Review of International Instruments*, The International and Comparative Law Quarterly, 38(4) 867-889 (1989) <www.jstor.org/stable/759918>.

⁵⁰ In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

- b) numerically less to the rest of the population of state- Needless to mention, the numerical representation is first ground of identifying a community as minority.
- c) subjected to abuse by dominant section in their respective area- Theorists in past have recognized that minorities should be non-dominant and majority will be holding dominant position, however, in order to avail the special status of minority it should be made necessary to let the community prove by way of evidence that their people are or have been subjected to abuse by the dominant section of the society. Being dominant or non-dominant alone shouldn't be made criteria to recognize a group as minority.
- d) share same or similar ethnic, religious or linguistic characteristics which differ from those of the majority of the population- The most approved characteristic in the history of the expression "minority" is that the community must share sense of belongingness and should follow same or similar religious, linguistic or ethnic attributes. These features makes the minority community differ from the majority population.
- e) motivated by a collective will to survive and preserve their distinct cultural, religious, lingual, ethnic attributes- This is yet another important feature that must be kept into account before declaring a community as minority. The feature entails that the community should not just celebrate their cultural ethnicity and share sense of belongingness but also should be motivated to preserve these attributes and pass it on to generations. The reason for the same is two fold, *firstly*, the community should be encouraged to preserve their distinct culture for which they were recognized as minority in the first place; *secondly*, to eliminate changes of the community evasioneing their culture and adapting attributes shared by majority after attaining the status of minority.

IV. CONCLUSION

After a thorough analysis of the literature existing in the context of minority, it appears that there still lacks a clear definition of the word 'minority'. The article attempts to carve out definition of the expression "minority" creating foundation for research and development in the area using definitions stated on international parameters and socio-political backdrop of India. The vitality of the programs and initiatives to protect, preserve the minorities is in abeyance until the authorities are fully aware of the definition and its components of minority. Till date India has not grounded any definition or parameters to define as to who would comprise of minority in the nation. The problem, without any iota of doubt gets grave, when this grey area is arbitrarily exercised by politicians and administrative to further their own agendas and incentives. In

the absence of any apparent definition or checklist for determining minority, the judiciary will be piled up with litigation for seeking to avail title of minority and their benefits thereon and the same shall remain the all-time favourite political tool.

While the absence of an adequate definition of “minority” remains a problem, it seems that the mindset of the country to not let go of the divide of minority and majority is a larger issue that is not being addressed on any platform. The spirit of framers of the constitution in this issue led to the introduction of the concept of minority to protect certain communities. The same was in furtherance to the then socio-political conditions of the country and the after effects of the partition. As reflected in the constitutional assembly debates the classification of minority and majority was a temporary arrangement to uplift the minority class and to bring it at par with the majority. However, it appears from the literature review that, the constitutional benefits attached to the community for their development and protection was provisional in nature and never constituted a permanent part of the Constitution. The drafting committee of the constitution was able to foresee the fear of discrimination and the ultimate objective of the constituent assembly was integration of society. However, with the passage of time these provisions have become a political ground leading to evasion of the intention and essence of the constitutional mandate of these provisions. To revisit the issue the paper has attempted to redefine the word minority using definitions proposed by several platforms while keeping in mind the essence of constitution and judicial trend alive.