

## Religious minorities in India

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The present paper<sup>1</sup> deals with the position of minorities, especially religious minorities, in post-independence India. It is divided in three parts. The first part tries to define the groups of minorities in India; the second deals with the position of minorities according to the Indian Constitution; and the third concerns some of the attacks on the rights of religious minorities which have been carried out by the Hindu nationalist Sangh Parivar, especially during the period in which they were in control of the central government in New Delhi from 1998 till spring 2004.

### *Who are the minorities of India*

Who are the minority communities of India? In this, as in so many other respects, India is very different from most other nations, especially the more homogenous, present-day European nations. This has to do with the fact that India as a state is not a product of indigenous growth, but results from British colonial effort.<sup>2</sup> In fact, if we look back through Indian history, it is only for brief periods like the rule of the Mauryas in the 3rd and 2nd century B.C. and the much later Moguls around 1700 A.D., that we meet with empires of the same size and extent as modern India; and in those cases also, instead of talking about nations, it would be more correct to speak about empires. So, modern India, or the modern Indian nation, is in many respects a product of British imperialism.

Furthermore, we have also to take into consideration that the present Indian republic, not to mention the former British India, is in fact a subcontinent covering an area almost one third the size of Europe, and populated by many different ethnic groups which speak many different languages, practice many different religions, and hold many different cultural

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<sup>1</sup> My thanks go to associate professor Kenneth Zysk of the Asian Studies Section of the Department of Cross-Cultural and Regional Studies, University of Copenhagen, for revising my English.

<sup>2</sup> Something similar could be said about the former Soviet Union.

traditions. As a result, we deal in the Indian context with three different categories of minorities, corresponding respectively to linguistic, social, and religious criteria. All of these categories are dealt with and assigned privileges in the Indian constitution, although they are not clearly defined; and there often may be overlaps between the various groups.

Before dealing with the religious minorities in the strict sense, a few words must be said about the linguistically and socially defined categories. With regard to the linguistic minorities, this is rather easy, since this category really does not make much sense on an All Indian scale. Thus, although Hindi has been declared the official language, it is perhaps only spoken by about 30 percent of the total Indian population; and in addition to this there are thirteen other officially recognized languages. Accordingly, rules about minority languages in the Indian Constitution pertain mainly to a State, and not to the central government.

If we turn to the socially defined minorities, some are a product of the traditional caste system, while others result from a civilizing process which has been going on throughout India's history, and in which tribes from the jungle and mountain areas have been constantly assimilated to the surrounding agricultural and urban culture. In the first case, we are talking about the castes which were traditionally considered untouchables and from an orthodox point of view exist outside the Hindu society proper. Although discrimination by caste is today prohibited, these groups are grouped together under the term Scheduled Castes. These were the groups which Mahatma Gandhi called Harijans, but today they refer to themselves as Dalits, a term derived from Sanskrit and meaning 'broken' or 'trodden down'. According to the 1991 Census of India these groups make up 16,48 % of India's total population and are rather unevenly distributed among the various states.<sup>3</sup> In the second case, we are dealing with groups still living in jungles, forests and mountains, with often only a marginal contact with the surrounding society. These are often called Adivasis, or aboriginals, and are officially classified as Scheduled Tribes. According to the 1991 Census they make up 8.08 % of the total population.<sup>4</sup>

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<sup>3</sup> <http://www.censusindia.net/scst.html>.

<sup>4</sup> Ibid.

As is clear from the description of these two categories of minorities, although they are statistically taken to belong to the Hindu majority in the overall figures regarding religion, most of these groups do in fact owe their minority status to religious criteria. In the case of the so-called Scheduled Castes they owe their status to the discriminating practices of traditional Hinduism based on rules of purity and impurity; and in the case of the so-called Scheduled Tribes, many of these still uphold their own tribal religious traditions, although they are being increasingly contaminated by Hindu traditions.

### *The religious minorities*

Let us now turn to the religious minorities, as they are officially defined, whether in the Census Statistics or in the Constitution. In contradistinction to the previously mentioned minority groups, we are here dealing with minorities that are defined by their membership in internationally recognized, separate religions.

As will be seen from the recently published results of the 2001 Census, Hinduism is by far the major religion of India. Thus, persons categorized as Hindus make up 80.5 % of the total Indian population. Furthermore, this is a figure which has been constantly decreasing since the Census of 1961, when the figure was 83.4 %.<sup>5</sup>

By far the largest religious minority in India consists of people belonging to Islam, to which 13.4 % of people belong. This is a figure which, if we look at it from a historical perspective, has increased almost in proportion to the decrease in the number of Hindus. Thus, in 1961 only 10.7 % of the population were Muslims. This means that the increase in Muslims within the last 40 years has been 2.7 % of the total population, whereas the decrease in the number of Hindus has been 2.9 %. Second among the religious minorities are the Christians who in 2001 made up 2.3 % of the total population. Apart from a slight decrease of 0.1 %, this percentage has been more or less stable since 1961. The third religious minority is the Sikhs with 1.9 % of the total population. This figure has also been comparatively stable

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<sup>5</sup> [http://www.censusindia.net/religiondata/presentation\\_on\\_religion.pdf](http://www.censusindia.net/religiondata/presentation_on_religion.pdf).

with a slight increase of 0.1 % since 1961. Fourth comes the Buddhists who made up 0.8 % of the total population, a slight increase of 0.1 % since 1961. The Buddhists found in contemporary India are mainly of two varieties. The largest is the so-called Neo-Buddhists who are actually untouchables or Dalits who since the first half of the 1950's have converted to Buddhism under the influence of Dr. Ambedkar in order to try to escape from Hindu suppression.<sup>6</sup> The other group consists of Tibetan Buddhists, most of whom are refugees from the Chinese occupation of Tibet in 1951. As the fifth minority we find the Jains, who are adherents of an old indigenous religion, a little bit older than Buddhism. They make up 0.4 % of the population, a figure which has decreased by 0.1 % since 1961.

Included among the group of others are the two small religious communities of Parsis and Jews. According to the 1991 Census 76,382 persons were registered as belonging to the old Zoroastrian faith, while in the same year only 5271 Jews were left in India.<sup>7</sup>

### *The making of the Indian Constitution*

The present Indian Constitution was adopted by the 299 person Constituent Assembly on the 26th of November 1949, after more than two and a half years of deliberations, and came into force on the 26th of January 1950. It consists of 395 articles and is one of the world's longest constitutions. With its 45 amendments it has been functioning as the legal author for Indian society since 1950.

Already with Jawaharlal Nehru's proposal for the objectives of the Constitutive Assembly, it was clear that the persons chosen to frame the constitution for the new, independent Indian republic were faced with a daunting task, namely to find a compromise between modern, Western, liberal ideas of democracy and the enormous ethnic, linguistic, cultural, and religious

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<sup>6</sup> See e.g. Eleanor Zelliot, *From Untouchable to Dalit. Essays on the Ambedkar Movement*, New Delhi 1996.

<sup>7</sup> With regard to the data of the 2001 Census, Parsis and Jews have been included under the rubric 'others'. However, according to the *Brief Analysis of Census 2001 Religion Data*, the number of Parsis were 69,601 ([http://www.censusindia.net/religiondata/Brief\\_analysis.pdf](http://www.censusindia.net/religiondata/Brief_analysis.pdf)). According to non-official sources the number of Jews was about 4000 (<http://www.answers.com/topic/demographics-of-india>).

diversity found in India.<sup>8</sup> Thus, already article 4 of the Objectives Resolution of 13th of December 1946 declares as one of the objectives of the constitution that it should guarantee that India shall be ruled democratically,<sup>9</sup> and article 5 states that the constitution shall guarantee to all the people of India such rights as “justice, social economic, and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality.”<sup>10</sup>

If, in these two articles, we note a clear inspiration from Western documents such as the American Declaration of Independence and the Constitution of the United States, already article 6 shows us that the people behind the Objectives Resolution clearly envisaged the problems which could be foreseen when trying to transplant these ideals to the Indian social, religious and political reality, with its diverse minorities. Thus, in this article, it is said that “adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes”.<sup>11</sup> The same preoccupation is clear if we look at the list of the seventeen important committees of the Constitutive Assembly. Out of these, four were dealing especially with problems having to do with the situation of various minorities. Thus, there were the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas, the Minorities Sub-Committee, the North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee, and the Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee; all committees dealing with minorities or tribals.

No doubt the original intention behind the Constitutive Assembly was to produce a document that would assure equality to all groups of Indian

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<sup>8</sup> The present chapter is mainly based upon Iqbal A. Ansari's informative article “Minorities and the Politics of Constitution Making in India” in D. L. Sheth and Gurpreet Mahajan (eds.), *Minority Identities and the Nation-State*, New Delhi 1999, pp. 113-137

<sup>9</sup> “Wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people”. *Constituent Assembly Debates. Official Report*. Fourth Reprint 2003, Vol. 1, p. 59 (also available at <http://parliamentofindia.nic.in/ls/debates/vol1p5.htm>); see also Ved Prakash Luthera, *The Concept of The Secular State and India*, London 1964, pp. 172.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

society and at the same time safeguard the interests of the many minority groups. As such the work was based on the Government of India Act of 1935 and especially the so-called Nehru Report of 1928. However, the partition of India in 1947 put its mark on the work of the Constitutive Assembly. Many of the various designs for protection of minorities found in these two documents, and particularly in the Nehru Report, were especially aimed at the large Muslim minority. Now, that the Muslims themselves had decided to establish their own nation, many Hindu representatives did not feel the same need to comply with the demands of the Muslim minority. One result of this was that the scheme of reservations for the legislatures, proposed by the Nehru Report, was completely dropped during the drafting of the constitution. Similarly, the proposal for a proportional electoral system that would have been to the advantage of the minorities did not meet with the approval of the majority of the representatives.<sup>12</sup>

#### *The position of the minorities according to the Constitution*

Let us now turn to the question of the position of minorities, and especially religious minorities, according to the Indian Constitution. Since, as was earlier mentioned, the Indian Constitution in many ways is an attempt of combining a modern, liberal way of thinking with considerations regarding traditional social identities, it is easy to understand that there are contradictions. Thus, considerations regarding the individual and his / her rights mingle with considerations regarding social and religious groups and their rights.

Most prominent in the Constitution are, however, the considerations regarding the individual. Thus, already the Preamble declares that the people of India, having constituted the republic, have resolved to secure to all its citizens (1) social, economic and political justice, (2) liberty of thought, expression, belief, faith and worship, and (3) equality of status and of opportunity.<sup>13</sup> The use of words like justice, liberty, and equality, to which is added fraternity, leaves little doubt that the Indian Constitution is permeated by the same values of equality and justice and individual freedom which we

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<sup>12</sup> Ansari, *op.cit.* p. 121f.

<sup>13</sup> *The Constitution of India*. With Selective Comments by P. M. Bakshi, Universal Law Publishing Co., Delhi 2001, p. 1.

find in Western declarations and constitutions, beginning with the French Declaration of the Rights of Man from 1789 and the American Bill of Rights of 1791.<sup>14</sup> The language of the chapter on fundamental rights and their protection uses mainly the language of the individual or the citizen, not of groups.

When speaking about special privileges for members of religious and linguistic minorities, it leaves the liberal discourse of citizenship and takes up the language of group rights. However, the boundary between citizen and group is, on the whole, not completely clear.

Now, if we look at the rights described in the chapter on fundamental rights in the Constitution,<sup>15</sup> we may characterize them mainly as rights pertaining to religion, culture, and language. These rights are subordinate to a series of more general articles regarding equality before law, especially article 14, which assures to any person within the territory of India “equality before the law” and “equal protection of the laws,” and article 15, clause 1, which prohibits the state to “discriminate against any citizen on grounds only of religion, race, sex, place of birth or any of them”, as well as clause 2 which declares that “no citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.” Obviously, these clauses refer respectively to actions of the state and actions of the general public.<sup>16</sup>

Articles 25 to 28 deal with freedom of religion. Among these, article 25 establishes that, subject to public order, morality and health, all persons are “equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.” This article in a general way confers on all citizens freedom of conscience and religion. The next article (26) establishes

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<sup>14</sup> These sources of inspiration are also explicitly mentioned in the speech with which Jawaharlal Nehru introduced his proposal for a Resolution regarding the objectives of the Constituent Assembly on 13<sup>th</sup> of December 1946; see <http://parliamentofindia.nic.in/ls/debates/vol1p5.htm>.

<sup>15</sup> Articles 12-35.

<sup>16</sup> Cp. Subhash C. Kashyap, *Our Constitution. An Introduction to India's Constitution and Constitutional Law*, National Book Trust, new Delhi 2004, p. 100f.

that every religious denomination or any section thereof shall have the right “to establish and maintain institutions for religious and charitable purposes; to manage its own affairs in matters of religion; to own and acquire movable and immovable property; and to administer such property in accordance with law.” Thus, whereas article 25 gives each citizen the right freely to choose and propagate his or her religion, article 26 deals with organized religion and gives to every denomination the right to run and own its own institutions.

If the two preceding articles in a very broad sense set the limits of the secular State in matters of religion, the following two articles deal with more specific matters regarding the relationship between the State and the abilities of the citizens to practice religion. Thus, article 27 establishes that “no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.” This evidently means that no citizen shall be forced to pay taxes to other religious denominations. However, it also means that the Constitution does not allow the State to collect taxes in support of any religion. Article 28, clause 1, provides that “no religious instruction shall be provided in any educational institution wholly maintained out of State funds.” According to clause 2, however, this does not apply to “an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.” Finally, clause 3 orders that no person “attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such an institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.”

In these articles we reach the heart of Indian secularism. Obviously, the preceding articles mean that the State is not allowed to support any particular religion, thereby making its citizens contribute to the practice of other religions than their own. Similarly, the State is not allowed to promote any kind of religious teaching in its own educational institutions. On the other



hand, the boundary between the state and religion is not a complete one. Thus, the State, as we shall see, is allowed to support educational institutions run by separate religious communities, as long as it is certain that no citizen is forced to partake of religious education or religious rituals belonging to religions other than his own.

The following two articles, 29 and 30, present themselves under the heading cultural and educational rights. These articles are the only ones in the whole constitution which specifically use the term minority, and with regard to article 29, only in the marginal heading. Of these two articles, 29 is clearly the most comprehensive, declaring that “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.” Thus, this article establishes an overall right for any group of citizens to maintain their language, including script, and culture. Article 30, clause 1, is more specific and establishes that all “minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.” Furthermore, clause 2 says 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.” Although article 29 uses ‘culture’ instead of ‘religion’, it seems obvious that these two articles are very closely related, since the safest way to maintain and protect the language, culture, or religion of a group or minority is through the establishment of separate educational institutions. Furthermore, we may conclude from article 30, clause 2, that if the state supplies aid to educational institutions, it is also obliged to support institutions managed by religious or linguistic minorities.

We may, thus, conclude that the Indian Constitution establishes that the Indian state shall be secular, in the sense that it is not allowed to give preference to any particular religion. At the same time it gives full freedom to all religions to run their own affairs and offers to religious and linguistic minorities the special protection to run their own educational institutions funded or partly funded by the state.

If we ask what in actual practice it means for a religion or a religious group to have full freedom of religion, we do not get much information from the Constitution itself, apart from the previously mentioned freedom to establish and own religious and educational institutions. We do, however, get an indirect hint in article 44 which contains a so-called directive principle, stating that the “State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.” This brief article hides the important fact that a major part of the lives of the different religious communities in India, both the Hindu majority and the various minorities, is governed by legal pluralism. That means that each religious community has its own personal and family laws, which already during the time of the British had been codified and assimilated into the Anglo-British legal system. It is also a testament to the fact that those forces in the Constituent Assembly who were in favour of a common legal code, were in a minority, and still fifty-five years after the introduction of the Constitution nothing substantial has been done to change this situation.

Although not foreseen by the Constitution the Indian Parliament on the 17. of May 1992 passed the so-called National Commission for Minorities Act, ordering the Central Government to constitute a body, called the National Commission for Minorities, the functions of which, among others, would be to “(a) evaluate the progress of the development of Minorities under the Union and States; (b) monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures (c) make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments; (d) look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.” The first commission was constituted on 17th May 1993.<sup>17</sup>

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<sup>17</sup> For details, see the NCM website on <http://ncm.nic.in>.

*Various types of attacks on the religious minorities of India*

In the last part of my paper, I shall deal briefly with various attacks which are made against the religious minorities of India. Such phenomena are not new and in the Indian context generally go under the name of communalism. Communal riots between Hindus and Muslims regularly took place during the British period. However, these attacks have increased after partition and have taken a more serious and organized turn since the beginning of the 1980's.

The main reason for the increase in these activities is without doubt the growing strength which the Hindu nationalist, or Hindutva, ideology have gained since the beginning of the 1980's, a process which has been paralleled by a decrease in the influence of the Congress Party, which traditionally has been responsible for the secularist ideology found in the Constitution. Apart from the mostly Maharashtra based Shiv Sena, the modern Hindu right is mainly organized in the so-called Sangh Parivar, or Sangh Family. The reason for this name is the fact that the parent organization is the so-called Rashtriya Swayamsevak Sangh (RSS), founded in 1925 by the Nagpur Brahmin Hedgewar. Thanks to its educational and training system, this organization has since its start fostered thousands of Hindu nationalists who spread through all sectors of Indian society and all geographical regions. Furthermore, it has taken initiative to create a series of sub-organizations, the most important of which are the Bharatiya Janata Party (BJP), the political party which was in power in New Delhi from 1998 to 2004, and the Vishwa Hindu Parishad (VHP), a religio-cultural institution founded in 1964 with the aim to strengthen Hinduism worldwide.

According to Hindutva ideology, religious minorities, and especially the non-Indic minorities such as the Muslims and the Christians, are considered a potential threat to the Hindu nation; and as these forces have grown stronger and stronger, their attacks on these minorities have also become more and more frequent and intensive. In their attacks on the minorities and their interests, the Sangh Parivar organizations are employing different means. Here one could perhaps make a rough distinction between verbal, violent, and political attacks, although it is obvious that it is not possible to distinguish clearly between these forms since, in actual practice, they often supplement

each other. For example, violent attacks are often accompanied by verbal ones, and may often be politically motivated. Similarly, verbal attacks, may, of course, also be politically motivated. When I talk about verbal attacks, I mean attacks that occur in a verbal, a written or an oral form, and are not accompanied by physical violence. Similarly, when I talk about political attacks, I mean attacks which are made in a political forum or context.

### *Verbal assaults*

If we start with the first category, verbal assaults, we are dealing with a long tradition within the Sangh Parivar, and other Hindu nationalist organizations, of stigmatizing various non-Hindu minorities, especially Muslims, by constructing and popularizing simplistic and essentialist conceptions about them. They are commonly seen as foreign elements within the Hindu nation, dangerous intruders threatening Hindu identity. They, along with Christianity, want to take over India and turn it into a Muslim or Christian country. This they do by several means: by conversions, by producing more children than the Hindus, and by allying themselves with foreign economies.

Of these religious minorities, especially the Muslims present a frightening figure to the Hindu nationalists, a kind of Hindu counterpart. They are often pictured as strong and violent, and they kill and rape Hindu women. They are disloyal to the Indian nation, and turn their faces toward Mecca, instead of to Banaras. All they want is to build up another Pakistan within India.<sup>18</sup>

Obviously, verbal assaults are intimately linked with ideology, politics, and violence. Thus, on the one hand, this way of stigmatizing the non-Hindu minorities is deeply embedded in the literature written by the ideologues of the movement, such as Savarkar and Golwalkar; and, on the other, it is also frequently being used by the BJP in both riots and political campaigns. Prominent and recent examples of verbal attacks on Muslims are to be found in the speeches of the international general secretary of the Vishwa Hindu

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<sup>18</sup> It is not possible to go into details here, for an introduction to this phenomenon, see, however, several of the articles in Gyanendra Pandey (ed.), *Hindus And Others. The Question of Identity in India Today*, Viking, New Delhi 1993.

Parishad, Praveen Togadia, and the prime minister of Gujarat, Narendra Modi.

### *Violent assaults*

Violence between adherents of different religious groups, especially between Hindus and Muslims, is nothing new in India. Riots, in the form of relatively spontaneous outbreaks of violence, have often occurred both before and after independence. However, it seems that the level of organization and political motivation of these riots have steadily increased, especially during the period after independence. In fact most scholars studying violence in India agree that the majority of so-called riots between Hindus and Muslims which have taken place since about 1960 have been politically motivated.<sup>19</sup> This is also supported by the fact that most large riots since then have in fact taken place before, or in connection with elections, either on state or central level. This is not to say, however, that these riots may not at the same time involve other motives, either demographic or economic.

Unfortunately, however, there is a lack of reliable statistics regarding communal riots in India. This is due to the fact both that a common definition of what is a communal riot does not exist and that the latest report issued by the Home Ministry is from 1984-85.<sup>20</sup> A list of numbers of riots and deaths from the years 1960 to 1988 (TABLE 1), supposed to stem from the Home Ministry, clearly shows that, except for 1963-64, and the period of emergency under Indira Gandhi in 1975-1977, there is a gradual increase in the number of riots which have taken place, as well as an increase in the number of deaths from these riots.<sup>21</sup>

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<sup>19</sup> There is an overwhelming body of literature on the violent aspect of Indian communalism; for a few recent examples, see John McGuire, Peter Reeves and Howard Brasted (eds.), *Politics of Violence. From Ayodhya to Bebrampada*, New Delhi 1996; Ashgar Ali Engineer, *Lifting the Veil. Communal Violence and Communal Harmony in Contemporary India*, Hyderabad 1995; Ashgar Ali Engineer (ed.), *Communal Riots in Post-Independence India, Second Edition*, Hyderabad 1997, Ahutosh Varshney, *Ethnic Conflict and Civic Life. Hindus and Muslims in India*, New Delhi 2005 (2002), and Paul Brass, *The Production of Hindu-Muslim Violence in Contemporary India*, New Delhi 2003.

<sup>20</sup> Paul Brass, *op.cit.*, p. 60, Varshney, *op.cit.*, p. 90-91.

<sup>21</sup> See Z. M. Khan and S. N. Yadav, *We, the Minorities of India*, New Delhi 2001, p. 88. See also figure 1 in Ashis Nandy and others, *Creating a Nationality The Ramjanmabhumi Movement and Fear of the Self*, New Delhi 2000, p. 8.

TABLE 1

Year	Number of Riots	Number of Deaths
1960-63	343	181
1963-64	1125	1733
1965-67	326	92
1967-68	484	290
1968-71	1090	869
1971-72	512	600
1972-76	490	207
1976-77	229	272
1980-83	1597	936
1984	600	3500
1985-88	2400	1600

Furthermore, if one breaks up these statistics and asks who were the victims of the riots (TABLE 2), it becomes clear, first, that they were Hindus and Muslims, secondly, the majority of victims were Muslims, although they constituted only between 10 to 12 % of the total population. This seems to point to the conclusion that the Muslims were the victims and not the perpetrators in most of these riots.<sup>22</sup> According to some observers, one reason for this could be that the persons killed in so-called police firings are

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<sup>22</sup> See *ibid.*, Table B, pp. 105-06. The table covers the years 1968-1980. One has, however, to take these statistics with a grain of salt. Thus, the number of incidents mentioned in this table does not agree with the one shown earlier.

TABLE 2

Casualties in communal clashes during the period 1968-80 were as follows :-

Year incidents	No. of	Killed			
		Hindus	Muslims	Others/Police	Total
1968	346	24	99	10	133
1969	519	66	558	49	674
1970	521	68	176	54	298
1971	321	38	65	-	103
1972	210	21	45	3	70
1973	242	26	45	1	72
1974	248	26	61	-	87
1975	205	11	22	-	33
1976	169	20	19	-	39
1977	188	12	24	--	36
1978	219	51	56	1	108
1979	304	80	150	31	261
1980	427	87	278	10	375
Total	3949	530	1598	159	2289

Source: Some Handouts on Communal Riots. Published on the internet by India Policy Institute. Jan. 2004 (<http://www.indiapolicy.org/communal/lbs-comm-notes.doc>).

mainly Muslims.<sup>23</sup> Finally, it has also to be noted that the most riot prone states are Gujarat, Maharashtra, Uttar Pradesh, Bihar, and Madhya Pradesh, showing that, apart from Maharashtra, riots between Hindus and Muslims are

<sup>23</sup> See e.g. Paul Brass, *op.cit.* p. 60-61.

mainly a North Indian phenomenon.<sup>24</sup> It is also notable that most riots take place in cities or urban areas. One reason for this could be that the largest percentage of Muslims are found in the north; another reason could be the Hindu right is strongest in the north.<sup>25</sup> This indicates the strong political component of these communal riots.

One of the worst attacks on a religious minority in recent years is the so-called Gujarat carnage in February and March 2002, where almost 2000 people, mainly Muslims, were killed in a continuous series of riots lasting about a month.<sup>26</sup> Almost 100.000 people, again mostly Muslims, were displaced, and most are still living away from their homes in refugee camps. The attacks seemingly started as retaliation after about fifty-four so-called Hindu *karsevaks*, or servants, belonging to Vishwa Hindu Parishad and Bajrang Dal, on their return by train from Ayodhya were burnt to death when they arrived at the town of Godhra in Gujarat. According to most observers, the retaliation was, however, very well organized, and shops and houses belonging to Muslims had seemingly been pointed out beforehand. Furthermore, it seems that the state police did nothing to stop the violence, which points to the possibility that the whole thing may have been carried out with the blessing of the state government of Gujarat which since the beginning of the 1990s has been led by the BJP, and which had more or less transformed the state into a Hindutva laboratory, discriminating against Muslims, as well as Christians.<sup>27</sup>

The Gujarat carnage was an offspring of the so-called Ayodhya, or Babri Masjid, conflict which should, perhaps, be termed the 'mother' of most Hindu-Muslim conflicts within the last two decades. This conflict clearly illustrates the intimate relationship which exists between violence and politics; and how the BJP has very cleverly used intimidation of a religious minority, namely the Muslims, for political gain. Furthermore, it also illustrates how difficult it is to distinguish clearly between the various forms of attacks on

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<sup>24</sup> *Ibid.* p. 61-62, Varshney, *op.cit.*, p. 97-100.

<sup>25</sup> See Nandy and others, *op.cit.* pp. 15-16, Varshney, *op.cit.*, p. 95-97.

<sup>26</sup> See Brass, *op.cit.* p. 388.

<sup>27</sup> For a survey of the Gujarat riots, see Ashgar Ali Engineer (ed.), *The Gujarat Carnage*, Hyderabad 2003.



minorities which I have tried to delineate in the present paper, since these forms here overlap.<sup>28</sup>

This conflict was started when the Viswa Hindu Parishad in 1984 launched the so-called Ramjanmabhumi Campaign with the explicit aim of rebuilding a temple at the supposed birth place of Rama in the North Indian town Ayodhya. The heart of the problem was, however, that, according to the VHP, the temple should be built on the exact spot where a Mosque existed from 1528,<sup>29</sup> since this Mosque, also called the Babri masjid, was originally built by one of Babar's generals, after tearing down an original temple commemorating the birth of Rama. Although VHP has never been able to substantiate this claim by historical and archaeological evidence, the campaign offered an excellent opportunity for the Hindu nationalists to mobilize the Hindu masses against the Muslims by escalating a minor local conflict between Muslims and Hindus, using such simplistic slogans as Rama versus Babar, and building up a picture of the Muslim minority as violent iconoclasts who since their first entry into India had only been interested in pulling down Hindu temples and destroying Hindu gods. Already in the initial year of this campaign, one saw the results in the figures of riots and death. The number of riots increased to 600 and the number of deaths to 3500 most of them as a result of the campaign.

In 1990 L. K. Advani, the leader of the BJP, entered the campaign by driving around North India with images of Rama and Hanuman, campaigning for the building of the temple. It led to a good result in the following elections. This was an excellent illustration of how an intimidating campaign against a religious minority could be used for political gain. Two years later, on the 6th of December 1992, the Mosque was pulled down by large crowds of Hindu activists while the police and military stood watching; and in the

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<sup>28</sup> There are numerous studies of this conflict. To mention only a few: Nandy etc., *op.cit.*, Ashgar Ali Engineer (ed.), *Politics of Confrontation. The Babri-Masjid Ramjanmabhoomi Controversy Run-Riot*, Delhi 1992, and *Lifting the Veil. Communal Violence and Communal Harmony in Contemporary India*, Hyderabad 1995, pp. 71-258. The good documentary volume is A. G. Noorani (ed.), *The Babri Masjid Question, 1528-2003: 'A Matter of National Honour'*, 2 vols, New Delhi 2003.

<sup>29</sup> See the report of Human Rights Watch on [http://www.hrw.org/reports/2002/india/India0402-07.htm#P990\\_186914](http://www.hrw.org/reports/2002/india/India0402-07.htm#P990_186914).

coming days and months large riots took place in many places of India, during which several thousand people, mostly Muslims, were killed.

Whereas members of the Muslim minority have traditionally been the favorite targets of right wing Hindu attacks, within the last seven or eight years, there has also been an increasing number of violent attacks on Christians and Christian interests in several Indian states, especially in Gujarat and Orissa. These attacks have covered everything from assaults on Christian churches, rapes of Catholic nuns, and intimidation of Christian school masters, to killings of Christian priests and missionaries. As an example of the latter, one may mention in particular the very cruel attack on the Australian missionary, Graham Staines and his two young sons, who in January 1999 were brutally assaulted and burnt to death in their car during a safari in Orissa.<sup>30</sup>

#### *Political Attacks*

No doubt these attacks on members of the various minorities in India are grim and must be considered as serious flaws in India's modern, national state. However, many of these incidences could perhaps have been avoided, had the political will been strong enough. The small number of riots during the emergency seems to point in this direction.

Another, and in the long run more dangerous, attack on the position of the minorities in India, is perhaps the political attack on their constitutional, and non-constitutional, rights which have been carried forth by the Sangh Parivar, before the beginning of the 1980's with little conviction, but since then with increasingly greater political force. In the last part of my paper, I shall deal briefly with some of the ways in which this attack, which may at the same time be seen as an attack on the Indian secular system, has taken place.

One of the most important elements in this attack is the campaign of the BJP for a Uniform Civil Code. The idea of a uniform or common civil code, as it is found in most Western countries, goes back to the discussions in the Constitutive Assembly, where some of the members argued for so-called

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<sup>30</sup> See e.g. *Frontline* Vol. 16, 3, Jan. 30 – Feb. 12., 1999.

Uniform Personal Laws.<sup>31</sup> The argument put forward by these persons centered on the need to create national unity. However, the large majority of the members of the Constitutive Assembly voted in favor of Personal Laws for the various religious denominations as a compromise between religious and secular points of view. Here one should not forget that also among Hindus, there was a strong sense of the importance of religious laws to guide family- and personal life. However, as previously mentioned, the desire for a common civil code was put down in article 44 of the Constitution which speaks about a uniform civil code for the citizens, stating that the state shall “endeavour to secure for the citizens a uniform civil code throughout the territory of India”, an article which in practice leaves it to the politicians or legislators to effectuate.

Interestingly, the BJP is the only major political party favoring a uniform civil code; and the introduction of such a code is in fact one of their major electoral platforms.<sup>32</sup> According to this party, the existing personal laws were only a temporary arrangement; and they argue that the Law Commission should take it upon itself to study the various personal laws to find out the common material and come up with a draft for a new uniform civil law which should a) give women property rights, b) ensure women's right to adopt, c) guarantee women equal guardianship rights, d) remove discriminatory clauses in divorce laws, e) put an end to polygamy, and f) make registration of all marriages mandatory. Thus, we have the rather odd situation that the BJP, a party in favor of India as a nation built on Hindu culture and values, in contrast to secularist parties like the Congress and the Communist Party of India (CPI), argues for better conditions for women and for common, secular personal laws. The reason for this is, however, not difficult to see, since most of the mentioned improvements were already included in the revision of the Hindu Laws in 1955 and 1956. The proposals made by the BJP are thus an implicit attack on the Muslim personal laws which are based on *shariat*.

Another issue which has occupied the former Hindu nationalist coalition and also some of the state governments run by its coalition partners

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<sup>31</sup> See Ansari, *op.cit.*, p. 132.

<sup>32</sup> See chapter 10 of the BJP Election Manifesto '98 on <http://bjp.org/manifes/chap10.htm>

centers on the question of conversions. This is an old, favorite topic of the Hindu nationalists who have always felt threatened by the so-called mass conversions which take place when whole groups of Dalits sometimes convert to Islam, Christianity or Buddhism. They tend to see this as a conspiracy against the Hindu majority led by Muslims and Christian missionaries who are acting out of fraud and deceit. However, seen from the point of view of the Dalits, these conversions are one of the only political instruments which they have to protest against age-old discriminative practices from the hands of high caste Hindus who have rarely done them anything good, but have only used them as cheap labor. As is well-known, they have been refused entry into Hindu temples and have in fact often been looked upon by high caste Hindus as non-Hindus. To force them to stay within the Hindu tradition amounts almost to hypocrisy from the side of the Hindu nationalists.

In several states, among others Orissa, Madhya Pradesh, Arunachal Pradesh, and Tamil Nadu, anti-conversion laws have been adopted which prohibit forced conversions or conversions by fraud, imposing severe fines upon the representatives of minority religions who take part in such conversions. Although it seems reasonable to prohibit conversions by force, the reality is that these laws are especially directed against Christian missionaries who often run educational institutions, and as part of their educational activities sometimes happen to convince people, especially representatives of the Dalits, about the advantages of Christianity.

The overall problem with these laws is, of course, that they are possibly in conflict with article 25 of the Constitution, which advocates “freedom of conscience and free profession, practice and propagation of religion.” Thus, they curb both the freedom of the Dalits to choose their own religion, as well as the freedom of non-Hindus to propagate their religions among Hindus and Dalits.

A third area where the Hindu nationalists have tried to challenge the freedom rights of the Constitution is the educational system. As we saw earlier, article 28 provided that no religious instruction shall be provided in institutions run out of state funds. This article was clearly challenged by the former Human Resource Minister, Murli Manohar Joshi, when he wanted to

introduce subjects like Vedic astrology and yoga into the curriculum. Although not directly challenging the constitutional rights, another Hindu nationalist attack on the religious minorities was when a revision of the history textbooks was begun by the National Council of Educational Research and Training. On this occasion the attention previously paid to the Mogul period was cut down to the advance of ancient Indian history, and facts sensitive to a modern understanding of Hindu tradition, such as beef eating in ancient India, was rudely censored out from the history text books.

A few final examples of these attacks are BJP's vain attempt at introducing a ban on the slaughter of cows and sale of cows' meat in India, something which may only be seen as addressed against Muslims and Christians; as well as their desire to close the National Commission for Minorities and entrust its responsibilities to the Human Rights Commission.

### *Conclusion*

In this paper we have seen that the Constitution of India provides several articles intending to protect religious and linguistic minorities and their culture. We have also seen how, in spite of this, right wing Hindu forces within the last couple of decades have assaulted primarily the Muslim and Christian minorities. Thus, it is clear that the aims of the architects of the Constitution of India have not been fully realized. On the contrary, some would argue that communalism has been on the increase since the introduction of the constitution. Indeed, it would be easy to see things in a negative perspective and criticize the Indian political and judicial system for not preventing some of the worst of the assaults mentioned above. However, before judging, one must take into consideration that the point of departure for the comparatively young Indian democracy is much different from the situation in the West. First, the number of ethnic and religious groups within the Republic of India is without comparison much larger than anywhere in the West. Second, the republic has inherited a tradition for communal riots from its colonial past. Third, some of the worst assaults, like those in the state of Gujarat, took place in a situation when Hindu nationalists were in charge both at state and central level, and, thus, were able to short-circuit normal

procedures for controlling such situations. Fourth, such misuse of political power is a phenomenon not confined to the Republic of India, neither is, by the way, political and violent assaults on minorities. Finally, we must not forget that radical Hindu nationalists are not a majority in India, however clever their political strategies may have been. This was confirmed at the general election in 2004 when the NDA-government lost its majority in parliament and the central government. India has in fact a critical press and a large number of secular minded politicians and NGOs who never get tired of opposing the demagogic political strategies of the Sangh Parivar.