

RE-DEFINING MINORITIES

Yoginder Sikand writes :

Of late there has been much discussion in the media and political circles about how precisely to define religious minorities in the Indian context. The Hindutva lobby vociferously advocates that the very category should be scrapped, alleging that it promotes 'divisiveness' and undermines 'national unity'. This reflects its visceral hostility to minority rights and its monolithic, majoritarian understanding of Indian nationalism. Some recent judgments of the Supreme Court and state high courts have also tended to give a very restrictive interpretation of the term 'minority' and of minority rights, and these, critics argue, have given further impetus to the Hindutva lobby's case. And now there is talk of the Government perhaps moving a Constitutional amendment in Parliament to do away with the notion of national-level minorities and replacing it with a definition that would specify minorities at the state level instead.

On the face of it, this proposal might sound innocuous, but, as several minority spokesmen point out, it is a major assault on minority rights. Mujtaba Farooq of the Jamaat-e Islami Hind, a leading Indian Muslim organisation, describes the possible amendment as a 'conspiracy', and adds the fact that the draft of the Bill is still unavailable adds weight to his contention as the 'secrecy' which surrounds it would provide minority organisations little time to analyse, critique and protest against it. He argues that it may well be that the amendment would reflect and reinforce certain recent judgments of the Supreme Court that he says aim to restrict minority rights. Suleiman Seth, President of the Indian National League, echoes the same fears. He contends that sections of the judiciary, the media and the political class 'are out to do away with India's social, political and cultural diversity' and sees the proposed amendment as reflecting their agenda. He describes it as 'being against the spirit of the Indian Constitution' and as part of a larger process of dilution of minority rights that he says sections of the judiciary are involved in.

If the government has its way to get minority definition re-defined a Kashmiri Muslim would not be considered a member of a minority community, for admission to a Muslim minority educational institution outside Kashmir. The same anomalous situation would prevail in the case of Christians in Christian-majority Nagaland and Sikhs in Sikh-majority Punjab, for instance.

Dr J K Jain, a Jain leader, also voices similar concerns. He argues, 'The affairs of the country are not being run as per the Preamble of the Constitution, which talks of social, political and economic justice'. 'We cannot implement even the first line of the Constitution, and at the same time there are moves to undermine minority rights through possible Constitutional amendments as this', he explains. 'Minorities are being reduced to the status of beggars, living at the mercy of the state or the majority for their rights, which are increasingly sought to be curtailed. Every organ of the state is being pressed into service to insult and humiliate the minorities and deprive us of our rights', he insists.

Says M P Raju, a senior advocate and leading Indian Christian legal scholar, 'Even if the amendment is not made, we still have to raise our voice against efforts to curtail minority rights by defining minorities at the state level, in the face of certain recent Supreme Court judgments that seek to redefine minorities in this way and to do away with the minority character of an institution if it does not have at least half of its seats filled by that particular minority.'

Besides the ominous implications of the proposed Constitutional amendment for minority rights, it is the perceived arbitrary manner in which the Government is said to be going ahead with it that has raised the ire of human rights and minority rights activists. Surely, the draft of an amendment of such import must be first made public and publicly discussed and debated before it can go ahead. □□□