ISSUES AND CONCERNS
Although minorities of various sort constitute a significant political issue today not merely in India but in several states there is no clarity regarding their boundaries and how to respond to them in the political processes of liberal democracies. It is not that other systems do it in any way better. Marxists have not even confronted the problem squarely and in all its complexity. Apart from political management the very structurisation of minorities becomes a problem as the political process may throw up identities of a minority character constructed on innumerable bases, but attaching themselves to one or the other valorised type of minority.

However certain valorised connotation of minority themselves may not be comprehensive and themselves be logged down in terms of ambivalences and contradictory pulls and pressures. A case in point is the notion of minority that found a recurrent expression in the liberal thought. It accorded little consideration to linguistic and ethnic minorities and highlighted the political minority. Even there, there is no consensus in this body of thought on how minorities have to be handled. Within their overall problematic different political thinkers adopted different approaches to the minority.

In India 'minority' has been one of the significant political issues right across the century. The induction
of representative institutions by the British precipitated these groups into the political mainstream. We have discussed the process of the constitution of these groups and their relationship to nationalism as a whole. Indian nationalism did not succeed in undercutting these groups effectively from the political arena in spite of its notable successes in advancing a secular liberal and rationalistic notion of nationalism embracing everyone in India. We have however, felt it necessary to distinguish between 'minoritism' and communalism. While the former has certain proclivity towards the latter, it is a distinct attitude and manifestation than the latter.

The Muslim question and partition constituted a predominant background around which minority rights were given a constitutional and political expression. In this context in the Constituent Assembly deliberations, the Congress leadership almost bent over backwards not to alienate the minorities. Various proposals for the representation of religious minorities arose in the Constituent Assembly at various levels. Proposals were mooted from provision of separate electorate to reservation of seats in parliament. Finally however, all such demands were to be set aside and the rights of the religious minorities were to be effectively clubbed with those of the linguistic minorities. We have discussed the different attitudes adopted by those who claimed to
represent respective minorities. Finally the minority rights were based upon the consent of the minority representatives themselves rather than those imposed on them. Apart from the fundamental rights and other claims of the citizens, they were to be vested with certain special safeguards expressed in article 29 and article 30. Further, the hitherto held claim of scheduled castes and scheduled tribes was to be effectively delinked from those of linguistic and religious minorities. Here was a major attempt to reconstitute relations away from the colonial mapping. Although the implication of this measure may not have been obvious at this point, it was to have far-reaching implications for the future.

A significant number of Congressmen and other members of the Constituent Assembly believed that minority rights were conjunctural. As the nation wields itself together, away from colonial interface, minorities would swim with the tide without making special claims to themselves. However, this has not been the case. Independent India saw a complex rise of minority institutions based upon the special claims accorded to them. Naturally, it has led to judicial wrangles of a de jure and de facto character and the judiciary has moved into sort issues out. We have given a special consideration to analyse these judicial decisions as they are perceived as extremely significant.
by the minorities themselves. These judgments have attempted to sort out the definition of minority and the connotation of 'religion' and language. They have defined the class of subjects to whom these claims are admissible and the use to which they can be put. They have also defined the claim of the state in terms of these rights and their relation to other fundamental rights and claims of natural justice. Furthermore, in terms of the operationalisation of these rights several judgments express themselves in terms of the powers and prerogatives of the management of the institutions under the auspices of the minorities. In a way, judicial opinion has made these rights a sort of superior claim, even above that of other fundamental rights.

In the final chapter of this work, we have attempted to probe how these rights are appropriated in the context of the political dynamics of Kerala. Although the model of politics in Kerala need not be typical and the way the minority rights have been appropriated there need not constitute a model elsewhere, it need not be peculiar either. In recent years, several social groups have legally identified themselves as minorities and have established their institutional expression of these rights in other states which bear striking resemblance to that of Kerala.

Our empirical data shows a widespread awareness
regarding minority rights in a cross-section of the population that we studied among two minority communities. Muslims and Christians in the Kannur district of Kerala. These rights are seen as conferring special privileges distinguishable from other civil rights although there are wide differences of opinion about the justifiability of these rights. While there is a great deal of ambivalence about the need of these rights and identification with their respective minorities, there is a heightened awareness about the rise of the Hindu majority communalism. In this context a significant section of the youth especially among the Muslims feel that minority rights have to be enhanced rather than curtailed. However, there does not seem to be an alienation from mainstream politics and recourse to regional and communally grounded parties. The Indian state is perceived by a vast majority of these minorities as authentically secular rather than communally chauvinistic as argued by some fringe militant groups. The minorities do not cling to their religious leadership to provide a solution to their political and material concerns. In fact they expect them to confine to their specific callings. In fact there are significant sections who feel that through minority rights the religious leadership advances its own partisan ends. In a sway it speaks for the health of the Indian polity that a vast
majority of the minorities do not feel that a reverse communalism is the solution to tendencies of majority communalism.

In the light of the discussion hitherto, we would wish to raise a few significant issues. As it is stated earlier a very distinguishable trait of the Indian sub-continent is that it is a land of minorities. The majority in India is constituted by innumerable often mutually antagonistic minority groups. As a consequence, within the so called majority itself there goes on a never ending struggle by various interest groups for assertion and domination. Nevertheless certain factors or traits that unite these highly differentiated and often conflicting interest groups, can be isolated. They can be drawn to distinguish the larger group from the smaller ones. Thus the majority gets an apparent external uniformity or symmetry in spite of the internal contradictions. The Hindu majority in India has this external uniformity.

Even though the majority is thus distinguishable from other religious groups, there can ever be the possibility of overlapping between the so called majority and minority i.e. between the Hindu religious majority and the non Hindu minority. The same can be said of the linguistic and ethnic identities too. This overlapping encourages
one section of the majority to join another section of the minority against the rest of the majority. Here the demarcating line between the majority and minority becomes too thin and often a question can be put "Who are the minorities here". For such a query there exists no definite answer.

Even the so called minorities are also not exceptions to this structural diversity. Every minority, even apparently well united ones too, consists of smaller but otherwise distinguishable units. In the Kannur district also this general rule does not go for an exception. For example the Christians consists of large number of denominations such as Syro-malabar, Syro-malankara, Latin Catholics, Jacobites and Marthomites. The Hindu caste classification has its full impact on the Christian community so that the harijan converts are branded as 'Harijan Christians'. In spite of the high rate of literacy and influence of socialist ideas, these Christians are not fully assimilated and they clamour for special safeguards such as reservation facilities as the scheduled castes. The infights among the denominations


2. Kerala is the first state in India to have cent per cent literacy.

276
come to light very often, so that one or other section of this minority community comes more closer to a part or whole of another minority or even the majority. There is a clear and noticeable interaction in economic political and social life of these minorities. However, in the case of protection of minority privileges, such as the management of educational institutions, the different minority groups come closer and work together.

Another intriguing issue is the predicament of majority within the minority itself. Though the minority in general is given special rights and privileges, often the benefits of these privileges go to a selected few within the minority. This peripheral group corners the fruits in the name and on behalf of the minority community, thereby blocking the benefits without allowing them to reach the large majority within a given minority. The empirical data substantiates it amply. Such a group claims that it represents the community. They clamour for the rights of the minorities. But it is only a disguise for strengthening their own power base. They plead for

1. Among the Catholics there are Syrians and Knanites. Among the Jacobites also there are Syrians and Knanaites. The social compartmentalisation is such that marriages usually do not take place between Syrian Catholics and Knanaya Catholics. Whereas it is not that much allergic to have matrimonial links between Knanaya Catholics and Knanaya Jacobites.
minority safeguards, but it is ultimately to advance partisan ends. They claim that they are the leaders of the community. But the painful truth is that they take the community for granted. The outcome is that the average member never dares to get out of his communal identity. They often tend to look upon this dominant group for guidance. The majority of the minority has rarely an opportunity to assert, instead, it listens to the dictates of the self-styled leaders. This predicament is more clearly noticeable in the case of religious minorities. The priests and Bishops of the Christian community and the Kadis and Musalyars of the Muslims and preachers of other religious communities treat themselves as self-anointed leaders of their communities. As far as religious matters are concerned generally they are more particular to preserve the conservative and fundamentalist traditions. But in other realms too they try to have their way, as in the running of the institutions bearing a collective identity. Without actively and directly

1. We can observe a difference in the case of the relative position of the clergy in these two communities. The Christian priests are at least graduates and are ordained only after rigorous training for about 10 years. They are often avowed bachelors and thus free from the botherations of family life. They are strictly under the obedience of the Bishops and they are full-time professionals. The clergy in other communities are less trained and often they are 'part-time' workers and have their family commitments. Accordingly the social status and acceptability differ both within their own communities and outside.
entering into the political field, they try to direct the
'sheep' and thereby influence voting pattern in the
elections.

When it comes to legally upheld minority rights too
they take upon themselves the 'duty' to establish and
administer educational institutions. The followers have
to be contented with making contributions for
'establishing' such institutions without getting any share
in 'administering' them. There is the widespread
criticisms that the community as a whole, as such has no
effective share in the exercise of the minority rights
given in articles 29 and 30. If religion is only one of
the many dimensions of social life, why is it permitted to
dominate in other areas of social life? As Moin Shakir
states "The majority of the people, be it of the
majority community or minority are victims of
exploitation".

'For what these minority rights'? This basic question
still remains unanswered. In spite of lengthy and
elaborate discussions both at the committee level and also
in the Constituent Assembly, the makers of the
constitution had taken its answer for granted. Nor the
highest judiciary of this country has come forward with a

1. Moin Shakir, Politics of Minorities, Delhi, Aianta
definite explanation. Instead the Supreme Court was always in favour of a much broader interpretation; might be because of the absence of clear and precise constitutional limitations on the scope of these rights.

The constitution merely states that 'the religious and linguistic minorities shall have the right to establish and administer educational institutions of their choice.' This is a broad and general statement without specifying the objectives for which this right is granted. Now the pertinent question is, what should be the objective of this right? Educational institutions for what? There are two main issues here. If the right is made use of for the preservation of the language/religion, it can never be objected by any sensible person. A religious minority must be given the right to establish educational or other institution for safeguarding their linguistic/religious interests and preserving their traditions. But then this cannot be the exclusive prerogative of the minorities alone. The majority also must have the same right to establish institutions for the preservation and growth of their religion or language. Then, where does come the need for special right for special groups? Modern society, especially a democratic society is of the majority and naturally it is for the majority. Hence it is needless to specify the rights of
the majority. Whereas, the minority on various reasons might be hindered in enjoying the same as the majority. So it becomes necessary to restate the 'equal right' of the minorities. That is what is done in the constitutions of many other countries. The philosophy of minority rights is to see that minorities get equal rights. It can never be additional rights to a section of the society.

In the Indian context the operation of minority rights may become a clear case of discrimination against the majority. A minority community can establish an Engineering College or a Medical College and run it as they like without much interference from the Government. Whereas, a group of men belonging to the majority community cannot establish such an institution and administer as they like as they are subject to the effective intervention of the Government. For example, it becomes a great mockery when a few people who can speak Tulu or Konkani join together, form a committee or trust, and run an Engineering, Dental or Medical College in the

1. St. John's Medical College, Bangalore, Christian Medical College, Velloor, Kasturba Medical College, Manipal and A.B. Shetty College of Dental Sciences, Mangalore are examples of such institutions.

2. For example, about 80 percent of the total seats in the private medical colleges (other than minority institutions) in Karnataka are reserved for the nominees of the Government.
the people who pretext of minority rights. However, the people who speak the language of the majority cannot enjoy this right unless so ordained by the state. The same question can be reframed. If the Christian minority can run a Medical college without much intervention from the Government regarding admission and administration on account of minority rights, why cannot the Hindu majority do so? Why is the right denied to them? If the Tulu or Konkani speaking minority can establish a professional college and run them 'freely' why cannot the Kannada speaking majority do so? This confusion is created because of the absence of a clear idea about the purpose or objective of the minority rights. Hence a restatement of the objectives of the minority rights is needed to avoid discrimination (of the majority) and discontentment too.

The discrimination of the majority is ridiculously conspicuous when we come to the educational policies of the various state governments, especially regarding the medium of instruction. For example, no sensible person may oppose if the Marathi minority or Tamil minority in Karnataka and Kannada Minority in Maharashtra demand

1. Some institutions just to avoid the (un)necessary intervention from the side of the Government, try to secure some type of 'minority cover'. The Kasturba Medical College Manipal is run by a minority Trust i.e. T.M.A. Pai Foundation. A.B. Shetty Dental College is run by a registered minority Trust.
primary schools in their own language. This can be treated as the enjoyment of the minority rights. But if the Marathi or Tulu minority in Karnataka can have their own English medium schools, why cannot the Kannada speaking people have the same right? In other words if a few Konkani speaking people join together and establish an English medium school they get recognition as a matter of right, but if a few Kannada speaking people want to educate their children in an English medium school and if they establish such a school, that school would not be recognised by the state government.

If there is a reasonable anxiety that the minorities may not be, for one or other reason, able to make use of and enjoy certain rights and privileges that are freely available to the majority, then, it is fair that the minorities are given special privileges so that they too can come up to the level of the majority. However, the provision of such privileges must not create a situation

1. The irony of the policy is that the more the state government makes an all out effort for the alleged 'imposition' of the regional language, the more the people opt for English medium schools. Who is unrealistic and misguided - the public or the government or the so called linguistic chauvinists?
where in the minority is placed on a higher pedestal.

In a truly secular democratic republic all citizens are equal and there is no reason to make an artificial compartmentalisation between the majority and minority. While the necessity of ensuring minority identity is admitted it cannot be at the expense of the equal rights of the majority.

In a true secular democracy, there is no relevance of speaking about the majority religion or for that matter about the minority religion. A secular state does not give predominance to any particular religion. If a particular religion is specially preferred in a state only then the other religions are at a disadvantage. As Shri Damodar Swarup Seth says "in a secular state

1. According to Dr. T. Aykara, Chief Editor, The Deepika, former Professor, Oxford, the provision of special safeguards in our constitution can be justified in the context of the partition. There was a real 'possibility' of discrimination and neglect of the minority by the dominant majority. The possible illtreatment is averted by providing special safeguards. He argues further that the alleged misuse of rights can never be a sufficient reason for its abolition, but calls for remedial measures. However, he agrees that such abuses call for remedial measures.

2. The constitution of the U.S.A. does not provide any special privileges or safeguards for the minorities, though there are groups which are for all practical purposes minorities. There is the neglect of and discrimination against the non-whites. But the remedy is not, they think, in reservation or in giving special constitutional safeguards.
minorities based on religion or community should not be recognised. If they are given recognition then we cannot claim that ours is a secular state". His argument is that special rights or safeguards either for the majority religion or for the minority religions is in essence not in tune with the ideals of a secular state. However, political religious and social life in India is deeply intertwined with Hindu religion and social practices which get a preferential treatment in spite of avowed secularism. Besides there are hugely organised social and political forces today evoking a Hindu identity for which the resources of the minority are no match. Minority rights are seen by some as a protection against the same. People who share this perspective naturally clamour for reinforcing these rights and as was shown by the empirical data a significant section of the youth especially among Muslims, tends to believe in the same. The fallacy of the same is obvious and does not require a refutation.

---------------


2. Most of the public functions begin with a prayer invoking the blessings of a Hindu God or Goddess. In most of the government offices, the pictures of Hindu Gods and Goddesses are kept. These are instances to show the all pervading influence of the Hindu religion in the public life.
But precisely because the minorities are bearers of a distinctive identity based on religion, language or culture, it requires that it be protected and unless they express it otherwise, avenues should be available for them to develop the same. However, a rethinking is called for to redefine the content of those safeguards. A genuine endeavour is to be made to see that the exercise of these rights are directly or indirectly related to the self-evident objectives. The whole purpose is to see that the possible misuse is avoided. The effort must not be to delete their rights but to redirect the exercise for the realisation of the above stated objectives. For argument sake one has to admit that the Constituent Assembly has not set any clearcut and specific objectives for the exercise of the minority rights. But one cannot ignore that there are self evident objectives within the
political ideals vouchsafed. The right of religious minorities for establishing educational institutions must be for the benefit of that religious community. Similarly the right of the linguistic minorities to establish educational institutions must be one way or other related to it. If minority rights are thus used, the cases of blatant misuses can be easily avoided.

A major issue that was not visualised by the framers of the constitution is the peculiar predicament that now exists in Kerala. In the state 63 percent of the educational institutions are 'established and administered' by private managements, mainly by the

------------------------
1. There are certain objectives which could be inferred from the debates in the Constituent Assembly. But none of them are incorporated in the articles, might be because the members of the Assembly did not anticipate any deviation from those inherent objectives. Sri Damodar Swarup Seth was one who could anticipate such a problem. So he proposed an amendment (amendment No.704) to substitute the present article 29 "Linguistic minorities shall have the right to establish, manage and control educational institutions for the promotion of the study and knowledge of their language and literature, as well as for imparting general education to their children at primary and pre-primary stage through the medium of their own language." While introducing the amendment he stated that he was opposed to recognising religious minorities in a secular state and that he favoured safeguards only for linguistic minorities, that too for specific purposes. In view of the possible problems pertaining to 'primary education in their own language', the assembly negatived this amendment.
1

religious minorities. As it is stated earlier the Christians form only 20.6 percent of the population of the state. Therefore they are a minority. But the state government is the minority in the field of education. This is a very peculiar situation.

K.I. Ninan, leading advocate and a votary of 'Christian education' argues that this peculiar situation is a historical consequence. There was a time when the Government could not respond effectively to the educational needs of the people. The Christian churches and its leaders came forward and with the help of the public, started educational institutions in every nook and corner of the state. Together with the Christians others too benefited and that is how Kerala has the highest percentage of literacy. On the one side it is not proper to divest the Christian managements of the 'administration' of these institutions. At the same time the minority runs large number of institutions disproportionate to their strength in the state.

1. The author is grateful to the Director of Public Instructions, Trivandrum for providing the statistical information on educational institutions in Kerala as on 9-7-1990.

2. K.I. Ninan argues that the churches have been instrumental in opening so many schools for the service of the general public. It is a great service and it reduces the burden of the government. The high rate of literacy is largely due to the Christian efforts in the field of education.
It has its socio economic reactions. The salary is paid by the state government. That means a major portion of the state's income is diverted to meet the salary and other connected expenditure of these institutions. Since the management is free to make appointments the opportunities mostly go to the Christians, thereby the percentage of Christian teachers in the state is more than that of other communities. Naturally the other communities will develop some kind of grouse since, they do not get employment opportunities proportionate to their contribution to the state coffers. There would not be such an anomaly if the percentage of state finances allotted for the running of the minority institutions is negligible. But in Kerala the proportion is alarming that the Christian managements have necessarily to open the gates of employment to all communities.

Similar is the case of admissions too. In this state most of the professional colleges are run by the government itself. But the schools, Training institutes. Arts & Science colleges, are mostly under minority managements. Hence it is necessary that admissions must be more open to other communities. Legally and constitutionally the minority managements are free to 'administer' the institutions. This includes admissions.
But the socio-economic compulsions must force them to make compromises and the minority rights cannot be as absolute in Kerala as in other parts of India.

How far the rights of the minorities can be an irritant to the rights of the individuals? It is a well known fact that the employees in the minority institutions are not free as their fellowmen in other institutions. This is brought out by our survey. The disciplinary power of the management is like the sword of Damocles over the employees. It is understandable to argue that the managements need powers to regulate the activities of the employees in order that they may help to realise the objectives. However the employees need not be victims of the whims and fancies of the individual managements in the pretext of minority rights. Nor they should be denied certain fundamental rights that are available to other citizens. In this context it is worth remembering the general impression expressed by the respondents of the questionnaire confirming the complaint of exploitation of the employees. This is a situation entirely different from what was perceived by the constitution makers.

The interesting aspect which even the members of the Constituent Assembly had not given a serious thought is about the type of representation of the minorities. The
anomaly is very clear in the context of Kerala politics. The people of Kerala, especially that of Kannur district do not bother much about the religion of the politicians. In the elections too the voting pattern is not decided by the religion of the candidate but by the party affiliation. Hence giving 'representation' to the minorities is a very deceptive exercise. If representation is given to a community the representative must be 'responsive' to the community. But very often it is only an occasion for an individual for personal gain and profit in the name of the community.

1. For example, in the first communist ministry headed by E.M.S. Namboodiripad, there were two Catholics and one Protestant ministers. All of them from their publicly stated position, were atheists, anti-religious and in a way outcastes from a religious angle. Available evidence suggests that they never bothered about Christian precepts and practices. But they were much respected politicians and as politicians they were not unwelcome even to the Christian Bishops. Let us take another example. A.K. Anthony is a Christian by birth. From the public stance he neither believes in the Christian doctrines nor practices Christian religion. Such people are elected even by the Christians, not because of their Christian identity but because of their political integrity and leadership. This anomaly can also be looked from another angle. Take the case of two Congress Chief Ministers, A.K. Anthony a Christian and K. Karunakaran, a Hindu. The Christian community and its leadership in Kerala may prefer Karunakaran as the Chief Minister rather than A.K. Anthony. Karunakaran is a firm believer in God and he ardently practices his religion. The community naturally prefers a believer in God and religion to an atheist and an antireligious man who might be known accidentally by a Christian name. In varying degrees, this is the case with other communities and also in other places.
M. Ruthnaswamy's statement, quoted elsewhere in this thesis is worth remembering. "The minority rights can be eliminated when the minorities realise that their religion or culture or language is no bar to the enjoyment of all the rights of citizenship." He said it in 1948. Dr. Rajkumari Amrith Kaur, a member of the Constituent Assembly and minister in Nehru's cabinet advised her fellow Christians not to demand special privileges arguing that 'privileges and safeguards really weaken those that demand them'.

Given the political realities in India, its political system however cannot survive without such provisions. We are constrained to feel that not many from the minority communities will come forward suggesting the abolition of the articles 29 and 30. Today the demand for the abolition is not from the minority but from certain leaders of the majority. The vice versa would have been ideal, and that was the pious wish of many of a framers of the constitution.

This however, should not prevent us from envisaging a framework around which these rights can be reformulated. In the light of the discussion hitherto, I wish to suggest it in the following directions.

(1) The linguistic and religious minorities must be free
to establish and administer educational institutions.

(2) There must not be misuse or use for extraneous purposes.

(3) The exercise of the right must be directly or indirectly related to the aims and objectives for which the right is granted.

(4) Any freedom or privilege that is given to the minority must equally be available to the majority too.

(5) The provision of minority rights must not result in superimposing one section above other sections.

(6) The provision of such rights must be for uplifting a neglected section to the level of the majority or even to avert a possible neglect.

(7) The exercise of these rights must not result in the denial of certain other basic rights.