



In India the Constitution holds the key to resolving conflicts

The world's largest federation is divided by language, culture and tradition but held together by a political structure based on shared values.

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

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Indian pluralism is a fact that gets amply reflected in her social federalism, recognizing and respecting diversities in the society, and providing social and political space for the articulation of multiple identities. India has 18 languages and some 2000 dialects, a dozen ethnic and seven religious groups fragmented into a large number of sects, castes and sub-castes, and some sixty socio-cultural sub-regions spread over seven natural geographic regions.

Variation exists in social systems, economic formations, culture patterns, language/dialect groupings, religious communities, castes and sub-castes, local mythologies, ethnic identities and folklore, music, dance, crafts and cuisine, regional alignments and sub-regional attachments. In the evolution of a 5000-year-old civilization, many strands of ethnic segments, religious influences, languages, and cultures have intermingled to develop a classic plural society. All these identities and variations are as distinct in their distribution and dimensions as are, normally, separate nation-states. And yet, this mammoth federal polity is a single sovereign territory, making the unity itself a federal concept.

Constitutional nation-building

The Constitution of India makes it clear what kind of nation India is by highlighting her shared past and shared destiny. The hopes that are enshrined in the Preamble to the Constitution are values commonly shared by the people of India – not by any particular group on whatever basis. That is the best guarantee for nation building.

In the *Golaknath* case of 1967 and the *Keshavananda Bharti* case of 1973, the Supreme Court of India emphasized a Doctrine of Limitations by emphasizing that certain “basic features” of the Constitution cannot be amended. This means that certain values permanently represent the aspirations of the people of India. For democratic nation building, this is a check on the whims of the political majority. Democracy, rule of law, equality before law, federalism, secularism, and independence of judiciary, are all part of this basic structure. Its inviolability guarantees the country's smooth transition to and consolidation as a Nation.

The rights of minorities

This phenomenon has special significance when considering various problems of and for the minorities in India. Even if there is a perception of discrimination and political alienation exists, the only course open to minorities is to get incorporated into the public life of the nation *as citizens* and not just as *dependent minorities*. Minority groups have realized that they can no longer remain clients of this or that political party but must emerge as partners in sharing the power in the nation.

Ultimately, it is not just the question of majority-minority in a plural society but also of social and distributive justice in a liberal democracy. The Indian Constitution provides a viable method for dealing with this question. Since following the democratic procedures and institutions in the normal course would be disadvantageous to minorities, the state has ensured special provisions for the protection of minority rights (Articles 25 to 30).

The issue of minority rights seems to be linked with the phenomenon of ‘Protectionist Sub-nationalism’. In several places in India, feelings of sub-nationalism have developed against such minority groups when the natives in a region have failed to effectively compete against the minority coming from outside in matters of employment, trade and commerce, and when these ‘others’ were culturally distinct and visible and could be easily blamed for failures. “Protectionist” demands from majority groups in many regions have become aggressive nationalism and antagonistic regionalism, on the part of people who perceived that they were being deprived of their status. Such a perception might have been based on false consciousness and false aspirations but it grasped the sub-conscious of people in Assam, Telengana, Vidarbha, Marathawada, Tamil Nadu, Uttarakhand, Jharkhand, Punjab and Kashmir. That sub-conscious provided them with an opportunity to symbolically overcome their apprehensions, their inabilities, and their failures.

The matter of language

In India, employment policy has played a catalyzing role in linguistic identification. While a language cannot be culturally neutral, it can be politically neutral (like English in India to some extent, as it does not identify with the culture of any indigenous group). But it is a fact that, in the socio-political life of a society, it is the language of the majority that dominates. Equal opportunity in liberal democracies would mean, first, that the State make available the resources and the opportunity to master the dominant language and, secondly, that the State

also make available similar resources and opportunities to languages of non-dominant groups. Whereas the first is clearly present in multi-lingual India, the second is conspicuous by its absence.

In India, conflicts over state boundaries have erupted over questions of linguistic identity. While Hindi represents the Indian nation-state, English is the language favored by the national elite. Of course, in the process, another language —Urdu— that is erroneously identified with the cultural identity of a minority gets sidelined and neglected. Similar is the fate of various dialects of the dominant language. If opportunities do not exist for the languages of minorities in education, administration and the job-market, then such languages become marginalized. If a community wants to move ahead socio-economically, it has to abandon its language and, consequently, its distinct cultural identity. The language may retain an emotional and symbolic value but the material linkage with the community is severed.

That is what has happened in the case of the Urdu language used by the Muslims of northern India. Since the Muslims in India are geographically dispersed across the country in numerical minority, the basis of their distinct cultural identity cannot be territorial. Religion is not considered a relevant variable in understanding distinct national characteristics. Linguistically, Muslims are prone to being assimilated in the wider linguistic identity of the State where they live. To preserve their socio-religious cultural identity, Muslims in India have relied on some symbols and the Urdu language provides that role.

Accommodating diversity

The Constitution of India recognizes the nature of ethnic identity and makes adequate arrangements for it. The Constitution has not ignored differences based on religion and language nor does it discourage them, but only says that no one is to be disabled by such differences. In fact, instead of discouraging differences, the Constitution takes them

for granted and offers every facility for their expression and development (Articles 19(1), 25-30). Whereas Articles 14,15,16 & 19 deny inequality, Articles 25 to 30 confer privileges; and there is no contradiction involved. The Constitution recognizes the ethnic plurality of Indian society and gives scope for its expression, both to the individual (Art 19) and to groups (Art 25,26, 29 & 30).

For a plural society like India, the option cannot be 'unity' or 'diversity'; rather, both have to co-exist in a single framework.

One unique feature of the Indian Constitution is the right (under Art 25) to propagate one's religion. Many constitutions grant a right to their citizens to practice and profess any religion. It is a major contribution of India's Constitution that it grants, in addition, the right to propagate a religion. The result of all this is that every citizen can exercise his privileges in the name of religion and culture, and nobody can do in the name of religion and culture what he cannot do as a citizen.

Take the implications of Article 30 as an example in this context. Article 30 confers on linguistic and religious minorities the right to establish and administer educational institutions of their choice. Minorities have the right, under the constitution, to transmit their culture through their educational institutions.

This right is not merely a minority right but also a fundamental democratic right, based on the freedom to dissent from the majority view. Without this freedom, integration would only be assimilation. As with many other rights, the Courts in India have been vigilant in checking the governmental actions that tend to erode the educational rights of minorities.

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Liberal values have been adopted in the Constitution to facilitate the promotion of tolerance and cultural co-existence. And that was believed to be the ideal relationship for the minorities in the 'Nation'. Today, minority concerns for the retention of their religious-cultural identity as an ethnic group are often seen as 'Fundamentalism' and as a threat to national unity.

Similarly, the minorities treat the inevitable process of "cultural osmosis" as a threat to their distinct cultural identity. All this leads minority groups to more vigorously assert their distinct identities as safeguards for cultural existence. The dilemma has been sorted out by the Constitution in not treating cultural, linguistic, regional and religious differences as a threat to national unity, or as a conflict between the majority and minorities.

The Indian Constitution has recognized that the way to achieve equality among individuals and groups is through the accommodation of interests. In a democratic plural society, there can be no place for one ideology, one faith, one religion, or one culture above all others. To maintain its democratic nature, such a society has to provide a separate 'social space' for each of its identities.

The viable guarantee for the future of Indian democracy is the blending of democracy, pluralism and rule of law in the Constitution of India. The founding fathers of India's Constitution rejected the philosophical postulates in the "clash of civilizations" thesis by proclaiming that every citizen of India, irrespective of religious belief, is absolutely equal before the law. The constitution makers who rejected the theory of two nations — the idea underlying the Partition of India in 1947 — constitutionally and institutionally guaranteed equality of citizenship. ☺