

# Minorities in a New World

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The fall of the Berlin Wall in 1989 symbolizes not so much the end of a bipolar world but more a transition of the world into a new state of being. One can argue that the collapse of the Soviet Union and the corresponding developments began a new era in which we have lived for the past two decades, or one can also say that these years have been a protracted period of transition to a new era. However, the difference in approaches does not change the peculiarities of the modern world: the extremely unstable international situation and the many conflicts that exist within states and between them. Beginning in the 1970s and 1980s,<sup>1</sup> the return or revival of religion, regaining a second wind in the post-Cold War world, exacerbated a whole range problems: **personal and collective identities, the relationship between religious communities, the relations between the state and religions, etc.** All of this has clearly manifested itself in conflicts associated with religious majority and minority communities.

Since the end of the 1990s and the beginning of the 2000s, extremism and terrorism have become increasingly noticeable in these conflicts. This complicates the already difficult relations between religious communities, one of which is usually a Muslim community as either the majority or minority. Despite all the dangers of the proliferation of ideological extremism and terrorism, it is not worth giving these dangers too much “landmark” significance when describing the post-Cold War world, because they do not determine its scope. In the world, there is no state living in full accord with these ideologies. The influence of **leading terrorist and extremist organizations** cannot be compared with that of international organizations, great

powers, or even transnational companies. This is why terrorist and extremist organizations choose the weapons of the weak: explosions in crowded places, armed attacks on unguarded civilian targets, and suicide bombers.

What determines the frames of the modern world? Twenty years ago, Francis Fukuyama proclaimed that there had emerged an unprecedented consensus on the legitimacy of liberal democracy. Liberal democracy, he argued, was becoming the final form of government, since there were no fundamental, intrinsic contradictions within it. Later, it turned out that this framework was neither universal nor standard. Attempts to describe the diversity of the existing forms of government create such definitions as illiberal democracy and liberal authoritarianism,<sup>2</sup> not to mention sovereign democracy.<sup>3</sup>

## Positive Discrimination

In addition, there are inherent contradictions within a democratic form of government, including positive discrimination, which implies certain steps to increase minority representation in political and economic spheres. The idea of the existence of minority groups, to whom it is necessary to grant preference due to their religious, ethnic, or linguistic affiliations, appears as both an achievement of Western political culture and, at the same time, as a “headache” for any democracy (or regime that aspires to be called “democratic”). It is an achievement, because it is a tool for restoring social justice, and a headache, because it retains inequality in society. Even at the beginning of the 20th century, members of British India’s colonial government wrote about the negative influence of positive discrimination on the status of minority groups: “A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security: it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority.”<sup>4</sup> Although

almost a century has passed since these words were written, they have not become less relevant. This is demonstrated by the example of India, “the world’s biggest democracy,” and one which Fareed Zakaria is inclined to describe as a non-liberal democracy (like the United States).

In India, the question of the need to protect the rights of minorities and of the instruments for the protection of group rights (the reservation of seats for religious communities in state bodies and the curial electoral system<sup>5</sup>) arose back at the turn of the 19th and 20th centuries under the colonial government of British India.<sup>6</sup> The latter started introducing these measures in the 1880s. The first decision in this domain was Viceroy Lord Rippon’s 1882 resolution on local government that foresaw the institution of elected advisory bodies composed of representatives of religious groups. Subsequently, the religious principle of forming legislative assemblies was introduced by the Indian Councils Acts of 1892 and 1909 and the Government of India Act of 1935. There was also an attempt to distribute seats in the legislatures among the religious communities on the basis of the Communal Award of 1932.<sup>7</sup> The first of these laws intended to expand the membership of the advisory bodies under the viceroy and governors. It was supposed to shift the center of political life from the “self-constituted associations and a small group of politicians and journalists” to the “responsible classes,”<sup>8</sup> namely, the professional, business and land-owning groups.<sup>9</sup> In accordance with the Act of 1909, seats in the imperial and provincial legislative assemblies were to be reserved for such religious and ethno-confessional groups as Muslims, Anglo-Indians, Indian Christians, and Sikhs, and according to the Act of 1935, for Muslims, Europeans, Scheduled Castes, Sikhs, Anglo-Indians, and Indian Christians.

At this stage, the majority among the Indian elites supported the system of reservation. Later, the party leadership of the Indian National Congress, the leading political force at that time, realized the disadvantages of a curial system. As a result, on the eve of the decolonization of South Asia, one of the leaders of the Congress, Jawaharlal Nehru, wrote that the curial system could perhaps for a short time bring some benefit, but that,

undoubtedly, the harm it had caused in all areas of life in India was huge.<sup>10</sup> According to him, the drawbacks of the curial system had 1) weakened the group, which was in a backward state (meaning primarily the Muslims); 2) encouraged separatist tendencies taken up by new groups “of the most reactionary type;” 3) violated the democratic processes; and 4) diverted the attention of the colony’s population from economic problems that could only be solved by joint efforts.

However, after India gained independence in 1947, representatives of religious minorities in the Constituent Assembly, when called to produce a constitution, refused to consider the reservation and curial system as a necessary form for the protection of minorities. Following debates, the creators of the constitution reached a decision, according to which the reservation of seats was limited to a period of ten years, which, however, has extended to the present time, and to the following categories: castes and tribes, those included in the lists, and the Anglo-Indians (Articles 330-342).

The reservation of seats for the listed categories was a compromise formed by members of the Constituent Assembly in reaction to the Hindu-Muslim riots in Bengal, Punjab, and other regions, as well as the riots in the state of Andhra Pradesh with participation of the Dalits (in Hindi, “the Suppressed” – the name that the Untouchables<sup>11</sup> call themselves). However, even such a limited reservation did not remove the problem of the representation of religious communities in state bodies. The Constitution (Scheduled Castes) Order, issued on August 10, 1950, explains the meaning of the term “Scheduled Castes”: “no person who professes a religion different from the Hindu [the Sikh or the Buddhist] religion shall be deemed to be a member of a Scheduled Caste.”<sup>12</sup>

Thus, the Constituent Assembly preserved the religious basis for the reservation of seats, which the representatives of Christian and Muslim minorities had tried to prevent. The presence of Hinduism on the list can be explained by the theory according to which the institute of caste had allegedly originated in the Hindu religion.<sup>13</sup> At the same time, representatives of Sikhism, Buddhism, Christianity, and Islam formally have equal

right to be considered members of the Scheduled Castes. None of these religious communities recognize caste distinctions, but there are cases when they also produce caste structures, similar to those that exist in Hindu communities.<sup>14</sup>

The system of the reservation of seats has also been retained in several states. If at the national level this system is being used by members of the religious minority, belonging only to their own religions – Buddhism, Hinduism, and Sikhism – in some states the system is being used by “other” religions – Islam and Christianity. For example, in government institutions in the state of Kerala, seats are reserved for the following categories: 14 percent for Ezhavas, 12 percent for Muslims, 4 percent for Roman Catholics, 2 percent for the Nadar caste, 1 percent for Christians from the Scheduled Castes, 1 percent for the Dhivara caste, 10 percent for those from the Scheduled Castes and Tribes, and 3 percent for other backward communities. (Of all seats in government institutions, 47 percent are reserved for these categories.) In this case, even though the government, formed in 1957 in Kerala by the Communist Party of India, has always condemned religious community politics, it retained a high quota of seats reserved for religious communities. Of all the places in government institutions, 14 percent were reserved for the Ezhavas, 10 percent for the Muslims, 5 percent for the Roman Catholics, 1 percent for backward Christians (proselytes of the Scheduled Castes and Tribes), and 10 percent for the other remaining classes.<sup>15</sup>

The problem of the acquisition and deprivation of rights to hold government office for converts from Christianity, Islam, and other confessions into faiths included in the Order, and vice versa, was passed down from colonial to independent India through the continued reservation of parliamentary seats based on religion. Accordingly, the basis for the political assessment of the transition from one religion to another was retained. As Nehru wrote on the eve of India’s independence, each convert is supposed to be a gain to the communal group, leading ultimately to greater representation and more political power.<sup>16</sup>

The contemporary illustration of how a change of religion could lead to a change in employment opportunities in public service is seen in the case, “S. Swvigaradoss versus Zonal Manager” that was heard in court in 1996. In this case, the plaintiff demanded from local authorities the right to a place at a government institution. Prior to the birth of S. Swvigaradoss, his parents, who belonged to the Scheduled Caste Adi-Dravida, adopted Christianity and thus were deprived of this given right. At the age of fourteen, he converted back to Hinduism, but the Supreme Court refused to recognize him as a member of a Scheduled Caste because he was born to Christians, who were not members of this caste. The Court ruled that someone who converted back to Hinduism may be considered a member of a Scheduled Caste only if he had been born into the corresponding Hindu (Sikh or Buddhist) caste. If the parents (or if only the father) professes a religion not mentioned in the Order, the adoption of Hinduism, Sikhism, or Buddhism does not allow their child to be considered a member of a Scheduled Caste.<sup>17</sup>

Besides the reverse conversion to one of the religions that give the right to a reserved place, there also exists the practice of changing one’s name, so that no one will realize whether one is a Christian, Muslim, etc.<sup>18</sup> These examples show that positive discrimination, on the basis of religion, may influence Indians’ decisions regarding the change of religious identities.

## Who Are the Minorities?

The Indian example demonstrates the contradictions of positive discrimination, which, despite its positive nature, is still discrimination.

However, there is yet another contradiction. It concerns the notion of minorities. After all, this concept has no universally recognized definition, fixed in international law.<sup>19</sup> The UN has offered only recommendations on possible options for the interpretation of this notion. Thus, according to a report by the UN high commissioner for human rights made on February

28, 2002, the term “religious minorities” includes groups that meet one of the two following criteria: either their religion differs from that of the majority’s in their country, or their members interpret religious texts differently than how the principal part of the followers of the same religion interprets them.<sup>20</sup> This definition is based on religious differences and the numerical characteristics of the community, signifying that the minority represents the group whose number is less than half of the general population of the country. Another important characteristic of the minority, which was first mentioned in 1979 in a special report to the UN by Francisco Capotorti, advocate-general of the European Court from 1976 to 1982, is the desire of the group to preserve its religion, language, culture, and other characteristics that distinguish it from the rest of the population.<sup>21</sup>

Since there are no clearer criteria for classifying groups of religious minorities other than by their “differences,” “number,” and “desire to preserve” group characteristics, people often use the ostensive principle. This means that the designation of minority groups is not based on specific criteria but on special lists, compiled by government agencies.<sup>22</sup> In India, membership in minority groups continues to be defined precisely on the basis of the lists compiled by government. This results in the politicization of the problem of the status of religious minorities and the lack of a unified government approach toward minority communities. Some of these communities are included on the list against their will, while others are denied the status of minorities, despite their small number and desire to preserve their identity.

As a result, Indian democracy implies the preservation of religious differentiation as a phenomenon of social and political life, and secularism involves public authorities not only in the life of religious communities, but also, in particular for minorities, in its regulation. Religious life in India remains largely within the scope of responsibility of the state, whose policies are a major factor in the process of forming the status of religious minorities and one of the most important conditions for the religious differentiation of communities in India. This means that the state preserves

the contradiction between the process of the formation of a national identity and the institutionalization of religious differences that may influence the inequality of the statuses of the majority and minority communities.

## Majority Rule and the Minorities

The Indian situation can be characterized as a dead end: working to improve the status of minorities, the state itself prevents their growth. As far as the short-term interests of the bureaucracy and the minority leaders are concerned, this situation is advantageous, because the minority enjoys special preferences, and the opportunities of a mutually beneficial relationship between the bureaucracy and minority leaders are preserved. This is mutually beneficial because the bureaucracy controls the minority with the help of its leaders, without delving into their internal problems, while the minority leaders receive power over the minority guaranteed by state, as well as the opportunity to integrate into the nation's elite.

From the standpoint of the long-term interests of society, such a policy is destructive, because it supports, and in some cases even exacerbates, the differentiation of society. The minority, after finding itself in a special position for a long time, can one day feel that it is no longer a part of society or of the state. The movement for the rights of minorities can, if it becomes a separatist movement, lead to the disintegration of the state, or if the majority does not want to allow such a development at any cost, to the violent repression of the movement.

The solution to this given contradiction does not seem impossible to reach, even though it requires a serious revision of current political practices. First, it is necessary to shift the usual emphasis in government policy toward minorities. One of the major problems is the issue of status. Different groups in society may have traditionally held different statuses, but the constitution of any democratic state proclaims the equality of all citizens before the law and their right to equal opportunities. Accordingly,



government policies should focus not on pulling up the status of minorities to the level of the majority's, but on achieving general equality.

Second, it should be recognized that in most cases, positive discrimination is an interim measure, and when turned into a perpetual practice, it can negatively impact both a specific group, freezing its development, and society as a whole. Both the state and society must constantly evaluate the effectiveness of positive discrimination in each specific case. If the use of this measure has achieved the main objectives that were set for its application, or, conversely, if it has proved to be ineffective, one must be prepared to abandon it or to replace it with more effective measures, including targeted support, preferential lending to small businesses owned by representatives of the minority, etc.

It should be remembered that the persecution of any minority, as well as its promotion, is an anti-democratic action (the latter is acceptable only as a temporary solution.) Moreover, if we take a step back, we might even say a democratic nation does not have minorities: everyone belongs to the majority. There are no minorities because in the ideal democratic state, it does not matter to which gender, religion, ethnicity, or language group a citizen belongs. These attributes are not a matter of principle in either a political, legal, or economic respect. Of course, this is an idealistic picture. It is far from reality, particularly in states with specific democracies. However, this ideal is written in the constitution of any democratic state, and the desire for it is the duty of every citizen.

## Notes

- 1 U. Altermatt, *Ethnonationalism in Europe*, trans. S. V. Bazarnova (Moscow), P. 130; A. Malashenko, "Introduction," in *Religion and Conflict*, ed. A. Malashenko and S. Filatov (Moscow: Moscow Carnegie Center, 2007), PP. 8-9.
- 2 F. Zakaria, *The Future of Freedom: Illiberal Democracy at Home and Abroad*, trans. V. L. Inozemtseva (Moscow, 2004).
- 3 V. Surkov, "Nationalization of the Future," *Ekspert*, № 43 (2006): P. 537.

- 4 *Report On Indian Constitutional Reforms* (Calcutta: 1918), P. 149.
- 5 According to the curial system, lists of candidates in the legislative assembly can be compiled based on a number of principles (social, religious, etc.) Voters can only vote for those candidates who belong to the same group as they do.
- 6 S. H. Rudolph and L. I. Rudolph, "Living with Difference in India: Legal Pluralism and Legal Universalism in Historical Context," in *Religion and Personal Law*, PP. 43-46.
- 7 N. N. Sircar, *Bengal Under Communal Award and Poona Pact* (Calcutta, 1933), PP. 5-8.
- 8 B. B. Majumdar, "Public Dispatches from India N<sup>o</sup> 67, Nov. 6, 1888," *Indian Political Associations and Reform of Legislature (1818-1917)* (Calcutta, 1965), P. 345.
- 9 M. V. Pylee, *Constitutional History of India, 1600-1950* (Bombay, 1972), P. 41.
- 10 J. Nehru, *The Discovery of India*, trans. V.V. Isakovich, et. al (Moscow, 1955), P. 382.
- 11 E. S. Yurlova, *India from the Untouchables to the Dalits: Essays on History, Ideology and Politics* (Moscow, 2003), PP. 300-301.
- 12 Ministry of Law and Justice, *Constitution (Scheduled Castes) Order (1950)*, <http://lawmin.nic.in/ld/subord/rule3a.htm>.
- 13 G. G. Kotovsky, "Introduction," in *Castes in India*, ed. G. G. Kotovsky (Moscow, 1965), P. 6.
- 14 There are numerous examples of this phenomenon in the *Imperial Gazetteer of India*. Therefore, in the Punjabi district of Ambala, eighteen parallel castes emerged, among Hindus, Muslims and Sikhs: Jats, Chamars, Rajputs, Brahmins, Gudzhary, Signy, Dzhhinvary, Chukhrai (this caste is not a Muslim one but a Jains caste), Arayny (no Sikhs), Tarkhany, Dzhulaha, Teli (no Sikhs), Lohary, Kumbhary, Nighy kambohi, Khatri, Sonar, Gadara (only Hindus). *Imperial Gazetteer of India*, ed. W. W. Hunter, vol. 1, (London, 1885), P. 257.
- 15 R. Krishnakumar, "A History of Reservation," *Frontline*, Aug. 27, 2004.
- 16 J. Nehru, *Discovery of India*, P. 280.
- 17 L. D. Jenkins, "Personal Law and Reservations: Violation and Revision in Contemporary India," in *Religion and Personal Law in Secular India: A Call to Judgment*, ed. G. J. Larson, (Bloomington; Indianapolis, 2001), PP. 112-114; *S. Swvigaradoss v. Zonal Manager, F.C.I., Government of Tamil Nadu*, <http://www.tn.gov.in/tamilngov/tamilgos/adtw81-t.htm>.

- 18 C. Pye-Smith, *Rebels and Outcasts: A Journey through Christian India* (Harmondsworth, 1997), P. 197; S. A. Rahman, "Fearful Muslims adopt Hindu IDs: In India, many members of religious minorities hide the signs of their faith to escape discrimination," *Star*, Aug. 15, 2007.
- 19 Today, the major international legal instruments dealing with minority issues include *The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, adopted by the UN General Assembly on December 18, 1992; the concept of minority is not interpreted. 42/135, *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, <http://www.un.org/russian/document/gadocs/convres/r47-135.pdf>.
- 20 *Specific Groups and Individuals: Minorities. Report of the High Commissioner submitted in accordance with Commission on Human Rights resolution 2002/57 on the situation of national, ethnic and linguistic minorities, in particular with respect to conflict prevention* (E/CN.4/2003/87), (Geneva, Feb. 28, 2003), P. 8.
- 21 F. Capotorti, *Études des droits des personnes appartenant aux minorités ethniques, religieuses et linguistiques*, Doc. E/CN. 4/Sub. 2/1979/384, (Geneva, 1979), P. 119.
- 22 S. V. Sokolovskiy, *Minority Rights: Anthropological Sociological and International-Legal Aspects* (Moscow, 1997), P. 23.

