

is another area of tainted and biased justice. Right to food and shelter is a basic right of the entire citizenry of the country. This right which has been flouted with maximum impunity as more than 30 percent of the population lives below the poverty line, while the republic continues its anniversary celebrations.

Whenever it was inconvenient to the Union government, the state government of Punjab was suspended through indiscriminate use of Article 356 of the Constitution as the constitution is unitary and not federal in distribution of powers. In March 1953, when the Pepsu government was indiscriminately suspended, Dr. Babasaheb Ambedkar—the author of the Indian Constitution, while speaking in the Upper House of the Indian parliament, agitatedly denuded and ridiculed the constitution.

Punjab has been deprived of its land and water rights, in violation of constitutional provisions. The constitution has different sets of laws for different states. Provisions of the Punjab Reorganisaion Act, 1966, in so far as water rights of Punjab are concerned, are a flagrant violation of the Indian constitution. Waters is a state subject for all states except Punjab. Nothing can be more blatant than this.

This was some time ago. Just a few days back, in broad daylight, in front of the whole world, right under the nose of its citizens and the fourth estate, the Mohali International Airport turned turtle to become the Chandigarh International Airport and Haryana became a partner under duress of the Union government. The claim of Haryana to river waters of Punjab, Punjabi-speaking areas, Chandigarh and the Punjab and Haryana High court is based on unconstitutional amendments and illegal provisions of the Punjab Reorganisaion Act.

The Punjab government has knocked the doors of the Supreme Court of India for adjudication of sections 74-76 of the Punjab Reorganisation Act, as they violate constitutional law. It is indeed surprising and shocking that this case has come up before the apex court a number of times and because of political compulsions it has been withdrawn too a number of times. Our concern is that even the highest court has chosen to ignore the dubious nature of such withdrawals without going into the merits of the case as it does in even petty criminal cases. Either by default or design, even the judiciary colluded, sometimes with the plaintiff and sometimes with the respon-

dent against the interests of Punjab. Actually, Punjab should seek compensation and relinquishment of thousands of acres of land as penalty in lieu of the land and waters of Punjab used by Haryana, Himachal Pradesh and Rajasthan.

While it was mandatory to review the working of the constitution once every ten years, this exercise has been carefully and conveniently ignored. On the rare occasions, when it has been carried out, the reports of the Review Committees gather dust.

There is no logical, political or even a far-fetched law and order argument to explain the Disturbed Area tag of present day Punjab, thereby depriving it of a huge chunk of financial grants and loans.

The litany of grievances of Sikhs need not be recalled again in all its gory detail, as there is no Indian politician, Punjab leader or concerned citizen worth his name, who is unaware of this inglorious tale, called the Punjab problem.

Of the innumerable amendments to the constitution, not a single one can be cited which was carried out to fulfill the aspirations of the minorities, including Sikhs. However whenever basic rights are to be frustrated, the minorities are the primary victims.

Do the Sikhs complain too much?

Martin Luther King alluded to this question in his historic speech. He said, "There are those who are asking the devotees of civil rights, "When will you be satisfied?" He makes a reply in the speech itself. He says, "We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality. No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters, and righteousness like a mighty stream."

We are aware of the accountability of Sikhs themselves for such Catch-22 situation. Whether the Sikh leaders and masses have been tricked or deceived into this or whether they foolishly bargained for this or may be they did not have a vision to lead the Sikh nation, there is no doubt that Sikhs will have to have to apportion a part of the blame on themselves. However, this does not in any way reduce the guilt of the Indian legislature, executive and the judiciary and the constitution for failing the Sikhs.

The Sikhs need to look within and elsewhere for new ideas, new plans and new friendships. We too, have a dream.

(This report is largely adapted from the Teasing Times document released by Dal Khalsa on the eve of the Indian Republic Day.)



**The Sikh nation believes that the Indian constitution has failed the Sikh people. India uses the best democratic ideals and institutions, including the constitution to scuttle our religious, social and political aspirations**

# Dumping minorities

The constitution of India's recent moves against minorities has created consternation in the minds of most of them. An overview by the learned academic puts the situation in proper perspective

Yoginder Sikand

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 view of Indian nationalism.

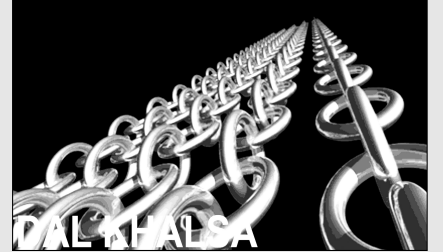
Some recent judgments of the Supreme Courts and state high courts have also tended to give a very restrictive interpretation of the term 'minority' and of minority rights, and their critics argue that this, have given further impetus to the Hindutva lobby's case. And now there is talk of the government 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 describes the possible amendment as a 'conspiracy', and adds that 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, weigh 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 of the Indian National League echoes similar 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.

Syed Shahabuddin, former MP,

**Sikhs are a free people but are in chains in India**



points out that if the amendment is passed, it would lead to a situation wherein Muslims in Kashmir, a Muslim majority state, would lose their minority rights and would not enjoy the privileges under Article 30 of the Indian Constitution regarding educational institutions. A Kashmiri Muslim would not be considered a member of a minority community when he or she seeks admission to a Muslim minority educational institution outside Kashmir. The same anomalous situation would stare Christians in Christian-majority Nagaland and Sikhs in Sikh-majority Punjab.

Dr. JK 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 criticizes recent judgments, most notably in the T.M. Pai case, as reflecting a 'restrictive, rather than expansive, interpretation of minority rights'. He argues that if minorities were to henceforth be defined state-wise rather than at the national level, it would amount to 'over-federalism' as well as a 'non-harmonious interpretation of the Indian Constitution', adding that minority rights need protection at both the state as well as national levels.

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This collage of pictures is from a protest demonstration in Amritsar by the Dal Khalsa on the eve of India's Republic Day