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**'MINORITIES-IN-MINORITIES' IN
SOUTH ASIAN SOCIETIES:
Between Politics of Diversity and
Politics of Difference**

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Critical positions on multiculturalism are caught in the dilemma between affirming the obvious urgency of minority protection in states and societies while simultaneously paying attention to the constraints that any such collective accommodation brings about. At the beginning of the third millennium, the majorities' 'fear of small numbers' (Appadurai 2006) persists, and blatant human rights' abuses experienced by minority members continue to characterize late modernity. Simultaneously, the scope of minority assertion, the growing sensitivity to minority grievances and demands as well as the expansion of regimes aimed at diversity accommodation form an important feature of politics around the globe. Collective provisions appear as appropriate instruments of protection and recognition under these circumstances. And yet internal differentiation and dynamics of change occurring 'outside' and 'inside' the minority 'groups' put collectivizing practices to test, in particular those that pose restrictions to individual freedom and that act against the norm of equality.

At the beginning of the third millennium, the tensions entailed in endeavours to accommodate diversity in contemporary societies are located between constellations of governance and governmentality. The present-day governance structures open up spaces of opportunity for minority activism that increasingly draws upon global connectivity. Global dissemination of ideas and transnational networking have significantly buttressed minority aspirations and their politics of identity and belonging. With the 'third wave of democratization', human rights' protection and diversity accommodation acquire a growing importance in most of the architectures of national governance (Reynolds 2002), and will be discussed, here, by drawing upon South Asian examples. Among the central demands in the postcolonial era are cultural rights: comprising protection and recognition of 'cultural units', devolution of power (up to territorial autonomy) as well as power sharing.

Today, governance is understood as a complex formation of societal steering; where continuous negotiations between the state and the civil society (under conditions of globality) play a crucial role. Among the state guarantees, the right to participate is an important prerequisite for community leaders to raise their voice, to engage in mobilization pursuing collective goals, and to make sure that rights are realized in practice. Under the conditions of majoritarian control, state-society accommodations evolve around designs for a 'proper system through which all (the) aspirations can be channelized' (Ghosh 2009: xxx). These negotiations have had substantial effects upon the internal dynamics within minorities because 'groups operate in a social field of pressures' (Weinstock 2005: 239). They tend to act in reaction to majoritarian practices, for instance, by drawing sharp collective boundary-lines between the 'outside' and the 'inside' (Wimmer 2008). Also in organizing their internal affairs, they respond strategically 'to the political, legal and cultural environments in which they find themselves' (ibid: 239; also Shachar 2001: 37-38).

While representing collective identities and seeking to match governmental criteria for collective accommodations entailed in multicultural politics, community leaders have frequently embarked upon communitarianism that reinforces ethnic boundary-closure, internal homogenization as well as subjugation under collective norms. These practices often endorse internal hierarchies and highlight patriarchal values. In the ongoing negotiations of democratic models for minority accommodation, the challenge of governmentality is vital. According to Foucault, governmentality is a technology of self-government and population control that conditions all actors within a given social field. This model envisages that those who govern and those who are governed adopt a common set of rules through their entanglements. This normative rapprochement results in reinforcing particular norms—that, for instance, buttress identitarian positionings—‘no matter whether these actors intend to contain conflicts’ (Thies and Kaltmeier 2009) or whether they are entangled in strategies of rebellion and resistance. Normative convergences result from jointly putting value stress on communitarian ideals, on the importance of maintaining collective boundaries as well as on according special value to collective identity (often considered perennial) and to the quest for its preservation. This often poses restrictions upon individuals as well as upon internal collectives, who are exposed to hardships in a double way: by suffering discriminatory practices directed against their minority and by enduring ‘internal’ pressures.

The problem of ‘minorities-in-minorities’ has already been extensively discussed in the field of political theory (Kymlicka 1995; Shachar 2001; Eisenberg and Spinner-Halev 2005; Benhabib 2002; in South Asian context by Mahajan 2005, in particular). The main thrust of these preoccupations has so far been on the complexities entailed in the normative foundations of minority protection—that is, the values of freedom, equality, autonomy and principles of recognition—that inform state policies dealing with diversity. These debates have

centred upon these values that conflict in multicultural societies, and especially on the collision between inter-group and intra-group equality. Mahajan (2005) has thematized this tension, suggesting that the quest for the former is likely to impede the latter, given the differentiated and hierarchical nature of ‘traditional communities’. Of special importance here are three sets of issues: first, the problem of tolerance vis-à-vis internal pressures limiting individual freedom (including the freedom of exit) and equality; second, the (im)possibilities of state interference into a minority’s internal affairs, and third, the tensions entailed in legal pluralism, in particular those resulting from the priority given to religious personal law within secular legal frameworks.

This essay adopts an evaluative rather than a normative perspective, and seeks to address this problem from the point of view of ‘internal’ dynamics and the hardships suffered by the ‘minorities-in-minorities’. The emphasis will be on the differentiated character of minorities and on external and internal pressures endured by collectivities and individuals ‘inside’ minorities. The discussion concentrates upon diverse South Asian examples, particularly drawing upon empirical data from India, Sri Lanka, and Nepal, also revealing the national diversity in political cultures, laws, and institutions of their enforcement that evolve in the very diverse (post)colonial constellations. The aim is to highlight the scope and the depth of problems ‘minorities-in-minorities’ face in contemporary South Asian societies. In particular, this inquiry reveals that lacking social and economic rights by vulnerable persons within minorities results in greater hardships than are usually acknowledged in multicultural discourses.

‘MINORITIES’ AND ‘MINORITIES IN MINORITIES’: CONCEPTUAL PROBLEMS

It is impossible to discuss the predicaments of ‘minorities-in-minorities’ without formulating two major disclaimers. First, the notion of ‘minority’ is academically unclear and often

contested in political communication. Second, the notion of 'minorities-in-minorities' can consequently be used only as a problematic 'short-cut' term.

Scholars disagree upon the definition of what minorities are. The most widely disseminated approach, formulated by Capotori (1991), defines a minority group as one 'which is numerically inferior' and in a 'non-dominant position', 'whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population' and who 'if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language'. Deschene (1985) provided a similar definition, based on the former one, but instead of stressing the quest for preserving culture, he highlighted the 'collective will to survive' and the aim 'to achieve equality with the majority in fact and in law'. Activists recently found the first definition as 'inadequate as it did not accommodate groups who did not wish to preserve the basis of their difference, for example the Dalits'¹ (Manchanda 2009: 5). Deschene's emphasis on minorities' desire for assimilation or integration was also criticized on the ground that it does not apply to all kinds of minorities (*ibid*).

The criterion of numbers is problematic as majorities do not necessarily form the establishment, while minorities are not necessarily subordinate (for South Asian examples, see Das and Samaddar 2009, *passim*; Manchanda 2009, *passim*). Also, individual members of minorities can acquire dominant positions while the majority of a minority population remains disadvantaged. Another important problem lies in representing minorities as corporate units. Whether all persons identified as members of a minority feel solidarity vis-à-vis a given minority is an empirical question. Ghosh (2009: xviii.) rightly embarks on the problematic nature of equating the terms 'community', 'ethnicity', and 'minority' with homogeneous groups (for a critique of 'groupism' prevailing in minority discourses, see Brubaker 2004). At the same

time, it is easy to understand that this equation well serves communitarian positions.

Communitarian positions—that are very influential in minority activism—put high value-stress upon self-preservation, seen as going hand-in-hand with the interest to protect internal cohesion by maintaining strong ethnic boundary-drawing mechanisms (Wimmer 2008). In this figure, both the aim of protecting collective identity and the quest for survival as a cultural unit, legitimize the subordination of members under particularist norms. In addition, ethnic boundary-maintaining mechanisms prevent members from leaving ('exit'). How far communitarian pressure can go is illustrated by the case of the Nepalese ethnic group of Dhimals who recently introduced fines on their members who perform wedding rituals that are at odds with the group's tradition (personal communication with M. Lawoti September 2009).

Critique of the notion of 'minority' comes also from persons addressed by this term. Indigenous activists have recently argued that the term 'minority' wrongly denotes the subordinate position of their constituencies in relation to the mainstream. The status of 'native people' who strive for autonomy is neglected through the discursive figure of a minority. This critique was recently also embraced by the Dalit activists in India and Nepal, who increasingly draw upon ethnic discourses. At a different level, the notion 'minority' and its collectivizing connotations cover up the significant internal differentiation of persons belonging to a 'minority' as will become apparent throughout this essay.

Yet another problematic is given by the fact that the status of 'minority' in any given national context is the result of prolonged accommodations in the framework of societal negotiations and institutional arrangements. Consequently, the legal status of 'minority' is granted to some 'collectivities' while it is denied to others. In India, the Muslims enjoy this status that allows for a far-reaching autonomy when it

comes to internal arrangements, in particular in the realm of Personal Law. Other minority categories such as the 'Scheduled Tribes' do not have this status, while at the same time enjoying entitlements to collective provisions.

The concept of 'minorities-in-minorities' suffers therefore from a double shortcoming: when the notion of 'minority' as such proves problematic, so does its multiplication. Who is meant here? Eisenberg and Spinner-Halev (2005) identify the major dimensions of predicaments denoted by the term 'minorities-in-minorities': 'Traditional family law systems often discriminate against women. Indigenous groups have been criticized for discriminating against women and, in some cases, Christians. Religious groups, too, have been accused of discriminating against women and homosexuals and mistreating children'. It is problematic, of course, to treat women as a 'minority' alone because of the criterion of numbers (see Das and Samaddar 2009 and see below). Also, persons enduring predicaments coming about with their precarious status within a 'minority' can hardly be treated as a collective *a priori*. For this reason, the notion of 'minorities-in-minorities' will be used within brackets, for want of a more adequate term.

Through the lens of intersectionality approach, the importance and also the ambivalence of the 'minorities-in-minorities'—problem come probably best to light. 'Intersectionality argues that it is important to look at the way in which different social divisions inter-relate in terms of the production of social relations and in terms of people's lives . . . classes are always gendered and racialized and gender is always classed and racialized' (Anthias 2009: 10)—and we can add: ethnicized. This approach sees prioritizing ethnicity over other social markers as problematic. 'People connect and engage not only in ethnic ways (indeed the saliency of ethnicity will vary contextually and situationally) but also in terms of other social categories and social relations, for example those of class, gender, age, stage in the life-cycle and political beliefs and values as well as trans-

ethnicity' (ibid: 7). Members of minority groups such as women, adherents to minority religions and persons of homosexual orientation, or indeed, persons combining a number of minority characteristics (i.e. female-homosexual-Christian in India) are prone to be in a significantly more disadvantageous position than the male Hindus of high caste-status. But since entire minorities often feel at a disadvantage within the Hindu 'mainstream' in India, this can result in collective pressures to subsume 'sub-collective' (female) or individual (homosexual) orientations and grievances under the imperative of the 'minority mainstream'. An obvious rationalization of such claims consists in highlighting the necessity of community preservation that relies on coherent images of internal solidarity and positive representation consisting above all in adhering to collective traditions. Given the internal differentiation, minority politics privileging religious and ethnic markers reveals a problematic of frontstage/backstage hierarchies entailed in multicultural orderings. Are internal measures of silencing grievances cross-cutting ethnic and religious commonalities the price for minority protection?

ACCOMMODATING DIVERSITY IN SOUTH ASIA'S DIVERSE POLITICAL CULTURES

The 'minorities-in-minorities'-problem closely relates to the (im)possibilities of minority self-assertion and adequate representations in the age of late modernity. These (im)possibilities have roots in the genesis of minorities and in their subsequent struggles in majoritarian societies for recognition and against discrimination. Minorities and their collective claims came into existence under the conditions of modernity (Anderson 1996; Gellner 1983; Wimmer 2002), while ethnicity formation and ethnic boundary-making is a significantly older phenomenon. Former political formations, such as the Ottoman Empire, ranked collectivities within hierarchical orders, by drawing between them clear-cut lines

of distinction, and differentiating collective rights and duties. In this political logic, 'nationalities' were subject to hierarchical ranking, while numbers mattered little. Imperial orders, including the colonial (throughout the South Asian subcontinent, but for Nepal) and semi-colonial regimes (as was the case in Nepal) thrived on cultural diacritics that were used to legitimize inequalities. Imperial orders therefore highlighted difference and established inequalities based on cultural boundaries.

It was only under conditions of modern nation-building that numerical considerations which created the figure of 'minority' acquired a crucial importance. In many countries, notably in most modernizing postcolonial societies, nation-building provoked cultural homogenization, using formerly established cultural hierarchies. Cultural characterizations of national societies drew upon markers of societal majorities while minority cultures were relegated to subordinate status. In most national self-representations, cultural difference did not have a space. In the nation-building process on which a number of countries embarked since the beginning of the nineteenth century, minority ethnic traditions were shunned in the name of modernity. Minority populations were often subjected to cultural practices that encouraged assimilation. Most of the nation-builders considered preservation of traditional cultures as interfering with the quest for national progress, and impeding communication. Also, minority practices cultivating 'traditional' custom were often portrayed as disloyal vis-à-vis the national collective. By contrast, in India, the multi-religious, multi-linguistic and multi-ethnic character of society was recognized through constitutional provisions, but cultural hierarchies have also been at work here.

Paradoxically (or not), forging nations as culturally homogeneous entities, with state practices—like communication, representations, and so on—being linked to majority cultures, divided the populations in many countries. Exclusion from public representative bodies, pejorative portrayals of minority cultures, reinforced by obstacles to participation in politics

and administration for members of minorities lacking the necessary cultural, social or economic capital turned in many countries into a negative integration matrix against which increasing resistance started to build up. Previous experiences of ordering, counting and classifying in imperial hierarchies matched with subordination and silencing in nation-building regimes enforcing assimilation have provided a powerful template on the basis of which current governmental policies *as well as* their minority contestations evolve. Previous measures at societal ordering are challenged by minority activists, often striving at normative inversions (Wimmer 2008), reacting to negative depictions of their collectivities in the past, and engaging in pressure politics. Under these conditions, 'minorities-in-minorities' become subject to govern-mentality.

In the current epoch of minority self-assertion, majorities and minorities are caught in struggles that are often antagonistic, but that are nevertheless mutually accommodative. In course of mutual negotiations and contestations, readjustments of discourses take place that often have solidifying effects in governmentality constellations. Collective categories are created along which collective identities are endorsed and from which collective claims to rights ensue. These dynamics buttress often reviving traditional practices. 'Traditional' positionings tend to privilege internal hierarchies and discourage dissidence by 'minorities-within-minorities', that is, challenging established gender-roles, sexual norms, or shunning religious conversion. Strategic essentializing and collective victimization voiced in public representations referring to past regimes form an important element of political communication in which minority activists engage.

Viewed from the vantage point of state practices, who qualifies as 'minority' and which minority-parameters are (more) recognized (than others) is the result of accommodations within (post)colonial political orders as well as of political constellations underlying contemporary struggles for recognition. In consequence, state parties differ in their readiness to acknowledge difference. They often resist at-

tempts of political conceptualization and legal codification that would put state practices (or their neglect to deal with minorities' objectives) into question. International law mirrors the diversity of national accommodations and national 'subtleties' in dealing with minority objectives by failing to define what is understood by the term 'minority'. This notion is so contested and so multifaceted that the international bodies refrain from providing an overarching definition, leaving this task to governments dealing with diversity within state borders.

The diversity of accommodation processes in three South Asian countries is indicated here.² For instance, India acknowledges 18 languages (out of 145 registered in the census of 1981) as official state languages. It recognizes four religious minorities (Muslims, Hindus, Christians and Parsis) allowing them the practice of Personal Law while subsuming others within the mainstream categories (the Sikhs and the Buddhists falling under the rubric of the 'Hindus'). Hindu-Muslim accommodations and their problems remain a very important feature of India's politics today (see below). India very early adopted collective provisions for special categories such as the Scheduled Castes, the Scheduled Tribes, the Backwards Classes as well as the Other Backward Classes and many hundreds of applications for acquiring these statuses are pending (personal communication with Sara Shneiderman in October 2009). Over the last two decades, federal states were built that correspond to territorial identities. It is impossible, of course, to do justice here to India's tremendous diversity and to the on-going measures to govern it.³

Sri Lanka's postcolonial politics tied modern nation-building to the politics of numbers in a particularly pronounced way. The post-independence '*Sinhala-only*' doctrine adopted in 1956 resulted in discrimination against the Tamil population that had detrimental effects for Hindu Tamils (differentiated among themselves by caste, origin and rights) as well as for the non-Hindus among the Tamils (especially for

Muslim and Christian communities). In the aftermath of the coming into existence of the Liberation Tigers of Tamil Eelam (LTTE), violent ethnic conflict proved to be the outcome of an exclusivist nation-building process that by putting numerical considerations in the forefront gave way to powerful ethnic bi-polarity (see Rajasingham-Senanayke 1999), resulting in ethnic un-mixing, a practice of making sections of populations move to their 'original' regions so that regional compositions of population homogenize.

Since Nepal embarked on the process of modern nation-building by the mid-twentieth-century, it initially was oriented to modernization coupled with measures of cultural assimilation. Since the beginning of the 1990s, Nepal reversed its policies.⁴ It constitutionally recognized ethnic and linguistic diversity and currently engages in a constitutional process of 'state-restructuring'. Since ethnic grievances were incorporated into the Maoist agendas in the late 1990s, cultural representation and equity, popular participation, gender justice, along with economic and social rights have simultaneously become the key issues in political mobilization. Yet it remains to be seen which political and judicial measures Nepal will adopt in order to combine this broad agenda, and how successful the new constitutional designs will prove in practice. From the 'minority-in-minorities' perspective, it is intriguing to observe a process that overtly subscribes to diverse sets of rights in an equal measure.⁵

Numerous hardships, discrimination and exclusions that minorities face in contemporary South Asian societies come particularly to light while concentrating on the 'minorities-in-minorities'. Individuals and collectivities falling under this 'rubrique' are not a *quantité négligible*. Rather the contrary.

EVERYDAY DISCRIMINATIONS AND THEIR CONTESTATIONS: SOUTH ASIAN EXPERIENCES

The 'minorities-in-minorities'-perspective analyses minority predicaments being viewed from the 'margins', that is, from

the perspective of those individuals and collectivities who do not fit into a minority's self-representations and social arrangements. It is not coincidental that the following discussion centres on women, in particular. In their case, gender-difference, ethnicity, socio-economic status as well as, in select cases, the sexual orientation come to intersect. It is problematic to consider women as a 'minority', of course, but this term will be used here as an indicator of the severity of the numerous predicaments experienced by women. It is in no way implied here that all women face the same problems. The heterogeneity of women's 'social locations', that is, the very diverse positions in societal hierarchies, the heterogeneity of interests and capabilities as well as the differing scope of female agency and 'rooms-for-manoeuvre' —horizons have already been demonstrated for women within the realm of Islam (see e.g. Hasan and Menon 2004; Sarkar 2008). Discussing large sections of female populations under the rubric of 'minorities-in-minorities' may also wrongly create an image of collective victimization that is by no means intended here.

'External' Threads: Violence against Minority Women

The problematic of female minority existence shows drastically in the vulnerability of their bodies. Minority women endure the same forms of suffering as women belonging to majorities: marital rape, abuses by in-laws, the killing of the girl child, forced marriage at a young age, prostitution as well as the vital problematic of widows' existence have been reported for all 'communities'. Together with male members of their communities, minority women often suffer hatred and discrimination. In addition, they suffer special forms of violence. When minorities are under attack, minority women are likely to turn into 'privileged' targets.⁶ This came prominently to light during the Gujarat riots in 2002, following the BJP's 'manipulating communal violence as a political weapon to polarize an already divided society for the consolidation

of the Hindu vote' (Basu Roy Chaudhury 2009: 47) in the Legislative Assembly Elections of 2002. In these riots more than 1000 men and women of Muslim faith lost their lives,⁷ health, protection by relatives, and belongings⁸ through immeasurable acts of cruelty.⁹ Women and children were under a double attack on numerous instances: killings, torture and rape executed on women and children have been directed at themselves as well as at their entire communities. Symbolic pollution of women performed through rape and mutilation constitutes a powerful 'statement' denigrating minorities expressed in patriarchal language. As Basu Roy Chaudhury (2009: 55) puts it:

Rapes, especially gang-rapes were used as a means of humiliating the minority community. After all sexual violence against women signifies a simultaneous humiliation of the patriarchy of the attacked community, by dishonouring their women . . . sexualized torture of women is particularly destructive to patriarchal notions of female honour.

These mechanisms were observed in other parts of South Asia as well. Pakistan is another example for minority women's vulnerability. According to Tikekar (2009: 129), 'minorities in Pakistan suffer from physical attacks, social stigmatization, psychological insecurity and economic marginalization'. Female members of particular minority categories, especially Dalit women, are often gang-raped, murdered or are forced to convert to Islam, 'but no action is taken against the perpetrators of such heinous crimes' (ibid). A number of such incidents were also recorded for Christian women (ibid: 130).

These findings are matched by those from Sri Lanka where Tamil women, whether Hindus, Muslims or Christians have not only been targeted in the violent periods of conflict. They also face particular risks under the conditions of displacement (see Banerjee 2009: 65ff.). According to reports produced by Amnesty International,¹⁰ many displaced women

have fallen victims of rape also to the security forces. Many reports confirmed that the risk of sexual violence for displaced women dramatically increases in the conditions immediately prior to, during and after their flight. Simultaneously, rape has repeatedly been used to displace women. This condition was facilitated by the fact that conflict in Sri Lanka—as in other parts of South Asia—has often resulted in a collapse of community and family structures. Having to leave their homes without family and community support has rendered women particularly vulnerable to sexual violence (ibid). Physical vulnerability is reinforced through the lack of opportunities of employment,¹¹ lacking access to health facilities as well as the extremely hard living conditions in camps where displaced people from Sri Lanka live, which usually turn into ‘homes’ for very long periods of time. Often left behind without husbands and their extended family members, as in the aftermath of Gujarat riots, women were suddenly stepping out from life in seclusion, forced into self-dependence, under the conditions of displacement, dispossession and—if at all—usually very meagre compensation (Basu Ray Chaudhury 2009: 44ff.). Their former subordination, lack of education and professional skills, bear particularly heavy upon women under these circumstances.

States and their representatives, in particular the policemen, often appear as taking sides. States are often perceived as acting on behalf of societal majorities and the experiences described here confirm this view. Instead of protecting minority members, security forces have often refrained from curtailing power, or even overtly supported the perpetrators, as has been reported for the Gujarati riots. The state’s neglect to curtail violence, to punish abuses, to provide for symbolic compensation through fact-finding missions and trials and the state’s neglect to create decent living conditions for the victims bear witness to its partisanship.

International law increasingly denounces violence directed against minority women, interpreting it increasingly in struc-

tural terms. Acts performed upon individual female bodies in the course of collective violence are seen as expressions of abominable values nurtured within institutional frameworks. States and their authorities are increasingly taken to task for tolerating, often supporting, normative standards resulting in violence against women, targeted against whole communities and in particular against their male representatives (see Coomaraswamy 1999 b).

Two inferences are of particular importance here. First, women and children from minority groups become targets in actions directed against their entire communities because patriarchal gender norms within minorities as well as among the ‘majority’ perpetrators match with one another (‘normative rapprochement’). Women’s vulnerability is therefore the outcome of accommodations finding a common denominator in communitarian ‘purity’ norms. Second, this mutual accommodation of values linking ‘purity’ of women to collective preservation results in women’s seclusion and marginalization. Their low level of education and the inability to care for themselves render women all the more vulnerable in situations of conflict. This is particularly noticeable when their traditional constellations of belonging come under attack.

‘Internal’ Predicaments: Subordination of Women through Religious Personal Law

Communitarian norms clash with gender justice in numerous circumstances, and these clashes reveal the social and economic vulnerability of women all the more. Indian audiences were especially made aware of the magnitude of this problem through the Shah Bano controversy that raged through the Indian public sphere in 1985-1986 and that remains a widely debated case in academic literature, until today. After more than forty years of marriage, Ahmad Khan, Shah Bano’s husband, of an affluent middle-class background, unilaterally terminated their partnership in 1978 by

pronouncing the *talaq*-formula. Being married and divorced according to Islamic Personal Law that is officially recognized in India, Shah Bano was left without a divorce settlement going beyond an initial two-year period. Shah Bano opted—as a number of Muslim women before her, for a secular code in her quest for bettering her financial situation. Until 1986, it was possible to take recourse to the *Criminal Procedure Code* (§ 125) which forbids a man of adequate means to leave close relatives in a state of destitution.

Having been successful with her move, Shah Bano had subsequently to face another trial because her husband appealed before the Supreme Court of India in 1985, challenging the settlement. He argued that Shah Bano ceased being his partner in marriage after he took a second wife. Ahmad Khan questioned the applicability of § 125 of *Criminal Procedure Code* for the Muslims. The Supreme Court ruled that it was the case and compelled Khan to make divorce payments to his former wife, Shah Bano. This might have settled the married couple's controversy, but the judge Chandrachud used this opportunity to express his critique vis-à-vis Muslim religious practices. This evoked a storm of criticism voiced against Muslim practices in general and it rapidly opened doors for voicing mutual resentment. Under mounting political pressure, the Supreme Court passed in 1986 the Muslim Women (Protection of Rights on Divorce) Bill demanding that divorced Muslim women who cannot look after themselves financially be put under the care of her blood relatives. Should these be not able to provide a diverse financial support, then the religious communities would have to perform this duty.

Through this new law, the autonomy of Muslim institutions in India was confirmed and reinforced. The judges made a strong statement subjugating the Muslim citizens under the Muslim Personal Law, thus precluding 'forum shopping', that is, the possibility to select between laws and courts in individual cases. The judges ruled that the social and economic

rights of Shah Bano were to be handled by the Muslim community that was made to provide her with a minimal pension. Benhabib comments:

Clearly, the purpose of . . . this . . . reform bill was to anchor the dependency of women upon a male-dominated, hierarchical structure, either the natal family or the community board. The possibility of assuring the divorced woman's independence through integrating her into a larger civil society and making her to some extent financially autonomous was totally blocked (2002: 167).

In Shah Bano's case, the Supreme Court weighted the right to Muslim communal autonomy over the state guarantee to gender equality. It is therefore important to distinguish between legal guaranties, on one hand, as well as the potentials of their realization, on the other. Legal guarantees such as gender justice constitutionally recognized by all South Asian States can be jeopardized in the process of weighting by courts different sets of rights against each other. These processes are likely to be affected by political pressure, with judges more often succumbing to strongly voiced public opinion than usually is acknowledged.

Shah Bano's case cannot merely be interpreted as an individual example. It rather sheds light on the magnitude and complexity of 'minorities-in-minorities'-problems faced particularly by women. Bringing one's own relatives to court and challenging community norms is a particularly precarious option when one's well-being depends upon this community. The importance of this case lies especially in its transformative force. It sparked off a very high degree of politicization in the public realm and resulted in the legal endorsement of a particular (i.e. Muslim community's rights and liberties) above those of women, restricting women's room for manoeuvre all the more. Shah Bano's case brought diverse political camps to contest each other. Right-wing Hindu orga-

nizations found here an excellent opportunity to denigrate Islam by highlighting its patriarchal norms and oppression of women, as if these malpractices were confined only to Islam. The recognition of religious law was criticized by secularists. Conflicting notions of freedom were debated between 'communitarians' as well as feminists of diverse political convictions. Indeed, communitarian feminism came to oppose liberal feminist versions (see Pfaff-Czarnecka 2007: 286ff).

Under the circumstances of political cleavages coming more and more into the open, the Supreme Court of India opted for a political compromise at the expense of Shah Bano who capitulated under severe public pressure and at the expense of other Muslim women (see also Kumar 1998). Despite the fierce protest from the feminist camp, in the case of Shah Bano, gender justice was relegated to a lesser priority while communitarian ideals as well as the quest for depoliticization of communal tensions acquired the centre stage. The pronounced disagreements between diverse feminist groups certainly did not help Shah Bano's cause.

Cultural Rights in Collision with Social and Economic Rights

Shah Bano's case generally points towards the Muslim women's discrimination in the social and economic field.¹² Numerous ethnographic accounts as well as censuses and reports (see in particular the Sachar Report 2006) document the scope of dependence, poverty, and underemployment among this religious group. These are matched by lack of access to health facilities as well as by inequalities within the educational system. In all these fields Muslim women are reported as particularly disadvantaged, but these findings hold for women in other minorities as well. One among many cases in point is the situation among the Adivasi (indigenous) women in Bangladesh, though women's situation varies from community to community and from region to region. According to Rahman (2009: 113), most Adivasi women are quite

marginalized, even among the matrilineal Khasi and Mandi groups. Notable exceptions exist in the case of the Mandi (Garo) people, and to a lesser extent, the Marmas. Compared to women from the majority Bengali community, Adivasi women face fewer social restrictions, though. Still, their inheritance laws tend to discriminate against women. 'The literacy rates for women are far lower than for men in all parts of the country. Although no separate estimates are available for the Adivasis, the 1991 Census suggests that literacy rates among women are lower even in areas with a significant Adivasi population' (ibid).

Children, another important 'minority-in-minority', cannot be forgotten here. Traditional family law systems can often have detrimental effects on their well-being. Patriarchal norms have frequently led to killing of female babies, to unequal treatment of boys and girls as well as to child marriage. In the educational field religious orientations can induce parents to send their children to special schools that later affect their chances in the labour market and consequently, the overall living conditions. This can particularly bear on girls who are denied the possibility to become economically independent when their educational course is restricted by their parents. Another very important field is the treatment of children born of 'mixed' partnerships. Minority communities often ostracize these children and deny them rights.

Socio-economic inequalities that often put entire minorities at disadvantage are therefore reinforced by internal inequalities. Multiculturalist positions vary significantly in their weighting the diverse sets of rights in relation to each other. Is the protection of particular sets of rights more urgent than that of other rights? Fierce proponents of cultural rights suggested *sequencing*, that is, giving priority to cultural rights vis-à-vis full enjoyment of other sets of rights. This position forgets to acknowledge the magnitude of oppression of persons denied chances in education, in employment and in exerting political will. Will Kymlicka argues that strong group-

based protections should not be secured at the price of violating rights fundamental to individual well-being. According to him, the aim of multicultural citizenship and minority rights is to provide groups with *external protections* and not to protect minorities in imposing *internal restrictions* on their members (1995, Ch.3). The 'minorities-in-minorities'-perspective adopted in this essay brings the close relationship between the disadvantages in ownership relations, the lack of education and hence professional skills and the vulnerability of women, to light. Minority women are precisely the ones in need of social and economic resources for the sake of self-protection, whereas a tension exists between cultural rights of collectivities and the social and economic rights of their members.

Internal Inequalities and Possibility of Reforms 'from Within'

Under these circumstances, a major question centres on the possibilities of how to strengthen rights of minorities within minorities. If the scope of state interference into the minorities' internal affairs is restricted, then reforms 'from within', paired with civil society assistance, remain the major option to reverse internal inequalities. 'Voice' appears so far a problematic option as communitarian value systems depend upon and reinforce internal hierarchies. Dissent is usually shunned. However, empirical cases document that internal reforms are possible, indeed occur within pronounced communitarian contexts. One recent example is provided by India's Catholic organizations.¹³

In the ongoing struggles within the Catholic Church in India, female activists have repeatedly denounced the persistence of patriarchal norms buttressing female subjugation and violence against women in public and private realms, inequalities in the field of social and economic rights as well as the lack of women's representation in organizational bodies. Catholic women's problems extend to a full range of issues, including abuses in intimate marital relations, power

differentials within households and in communities as well as the lack of *voice* at the organizational level. Female activists from within the church have already scored success in reforming Christian Personal Laws after 20 years of struggles by the year 2000 (Mahajan 2005: 108).

According to official statements by the Catholic Bishop Conference of India (CBCI), at the end of 2009 the church has begun to undertake measures geared at 'redeeming a centuries-long injustice'.¹⁴ It is to adopt a policy to grant equal representation within commissions that take decisions regarding all aspects of Catholic life: seminaries, parish and diocesan pastoral councils which take administrative decisions, finance committees, marriage tribunals and social service societies. It also promises to grant women the right to become pastoral assistants in all parishes and to take part in a common decision-making process. The CBCI also foresees sensitization courses and feminist theology as main subjects in seminaries where priests and nuns train and also call for biblical interpretations from women's perspective. Sensitization courses extend to highlighting equal partnership in marriage. Among CBCI's major stated objectives is boosting the self-confidence among women and working towards land and property rights for women as well as towards equal pay for equal work within parishes.

This ambitious plan is yet to be translated into an approved policy and it remains to be seen to what degree these policies will be put into practice. At present, this plan reveals above everything else the scope of women's subordination in one important South Asian minority (and similar findings are reported from other continents). Simultaneously, the CBCI's plan is a telling indication of the *possibility of change* within minorities that occur under the conditions of ongoing societal change, and is the result of prolonged contestation of Catholic female activists. CBCI's official statement identifying pronounced inequalities and discrimination within its patriarchal structure and envisaging far-reaching change that would challenge its basic nor-

mative orientations is an important step towards recognizing the problem within the organizational structure. Very importantly, the significant reversal of normative orientations and the promise that it holds out for women indicate that substantial revision of previous practices within minority communities—corresponding to the crucial changes in the societal mainstream—is possible. The organizational reform plan that is envisaged here points to the possibility of collective boundary-maintenance while engaging in normative reorientation and allowing for tearing down unjust structures. This example illustrates that social dynamics cannot be seen in the simplistic ‘either your culture or your rights’ dichotomy (Shachar 2001: 90).

*Discrimination of Homosexual Practices:
‘Exit’ as Viable Alternative*

A different dimension of ‘minorities-in-minorities’ problem opens up for persons with a special sexual orientation. Homosexuality that has been recently widely debated in Nepal’s and India’s public spheres has only sporadically been taken up as a topic relating to minorities. After Nepal actually acknowledged the validity of homosexuality in its interim constitution, the Delhi High Court ‘read down’ the aspect of Section 377 of the Indian Penal Code which hitherto criminalized ‘carnal intercourse against the order of nature’ (EPW, 11 July 2009).¹⁵ The court was guided by the rationale of ‘inclusion’, granting ‘everyone a role’ within the Indian society. The core of the judgment was that criminalization of homosexuality contravened the right to liberty, equality and non-discrimination guaranteed by the Constitution.

Recent liberalization of sexual practices in Nepal and in India extends to all cultural groups, in theory. Communitarian norms tend to shun homosexuality, however. With regard to minorities, two issues concerning special sexual orientation are particularly important. First, a section of religious leaders in India—notably Christian, Hindu, Muslim, and Sikh—has

expressed severe criticism against state measures ending discrimination against same sex relationships (ibid: 5). It therefore remains to be seen whether the recent judicial reforms will be endorsed within the confines of religious minorities. The second issue, raised by Jacob Levy (2005) in general, and not specifically with reference to the South Asian context, relates to the first one. Concerns of homosexuals within minorities are only sporadically taken up because persons with homosexual orientation *are expected* to disengage themselves from their natal community life. Same-sex relations are usually felt as so unorthodox that shifting the personal context of living seems to be a necessary solution. Such rationalization obtains for majority populations as well: communitarian projections see communal belonging as an alternative to life-styles related to homosexuality. It goes without saying that ‘exit’, in the form of disentangling oneself from closeness with one’s kith and kin and from the embeddedness of community life, is a severe demand put upon homosexuals. The problem with this option is pointedly described by G. Mahajan:

Communities oppress, not only by denying individuals the right to exit, but by imposing a very heavy cost for differing from the accepted way of life. For people who value their community identity and see themselves as a part of that collectivity, ex-communication or forced exit from the community is often the hardest punishment. (. . .) It is, therefore, of the utmost importance that valuing a community identity must not become a way of closing options and choices for the members (2005).

*Ostracizing Non-Conformist Marriage Practices
Through Caste Panchayats*

Transgressing community boundaries in the form of ‘exit’ can—as in the above example—provide a solution to minorities’ quest for maintaining communal traditions. On the other hand, minorities often punish transgressions to rules organizing boundary-maintenance. Inter-caste-marriages, a

case in point here, produce therefore yet another type of 'minority-in-minorities' situations. Inter-caste marriages, especially when the hierarchical distance between the castes is too wide and when the woman's caste ranges higher than the man's (*hypogamy*), continue to be shunned in many parts of South Asia. It is in particular the case in North Indian rural communities (Punjab, Haryana and Uttar Pradesh). In the same vein, breaches to village and to *gotra* exogamy-rule can result in severe punishment of the spouses as well as of their families. Caste Panchayats exerting pressure and meting out punishment and co-villagers expressing their anger have caused numerous deaths and injuries to persons whose marriage was not considered as *comme-il-faut*. On numerous occasions government authorities provided police protection to persons fearing physical assaults. The *Frontline* magazine (28 August 2009: 3-16) provides several accounts of spouses put to death, even in police presence. In Dharana village (Haryana) the government has dispatched 450 policemen in order to protect a family whose grandson married a woman breaching the rule of *gotra*-exogamy, according to the Kadyan khap (Caste Panchayat). Besides threats to life, persons accused of acting against their 'caste honour' have been excommunicated, isolated and made to face economic hardships. This occurs when fellow villagers refuse to accept their occupational services and mutual trade relations. Measures of isolation are not only imposed upon individual couples, but also on their extended families that are often asked to move out of the region.

CONCLUSION: ON THE (IM)POSSIBILITIES OF 'NAVIGATING'
IN THE CONTESTED TERRAIN OF MULTICULTURAL POLITICS

What do we learn from our analysis of the 'minorities-in-minorities' problem? Above all, the internal heterogeneity of 'minority groups' comes to light. Relevant literature contains uncountable disclaimers stressing that minorities are internally differentiated, but the ensuing narratives tend to ho-

mogenize minority descriptions, by stressing unity and sameness that result in reinforcing strong collective boundary-drawing mechanisms (Wimmer 2008). Analyses of internal differences concentrating on the more disadvantaged and vulnerable sections of minorities provide therefore a fuller picture of minority existence than overtly collectivizing accounts do. Views 'from the margins' provide insights as to what extent state practices and civic enmities, often hatred, came to bear upon disadvantaged minority members. 'Fear of small numbers' has created time and again state-society alliances that put uncountable minority members to death and caused unbearable losses.

Acknowledgement of internal heterogeneities reveals numerous instances exclusions and inequalities that are internally created, or at least reinforced through internal minority relations. 'Minorities-in-minorities' often experience tensions, inequalities and discrimination within their own communities. Internal heterogeneity often results in internal inequalities. Minority value systems often buttress internal hierarchies that find expression in reduced chances in social, economic and political spheres, as discussed in this essay. Patriarchal values, in particular, come to clash with women's claims to equal treatment. Individual freedom is often curtailed by communitarian values. Groups' positionings as strategic responses to practices of state governance tend to impose upon their members loyalty and subservience to collective goals. Given how contested minority politics are in contemporary South Asian societies (as in other regions around the globe), internal politics of difference are quickly denounced as dissidence. Simultaneously, external pressures can easily be used as an excuse to force members to embrace collective norms that the internal 'minorities' perceive as detrimental to their well-being and convictions, placing severe demands on them.

How do persons then 'navigate' in the contested terrain of multicultural politics? Three scenarios are possible. In the first scenario, individuals or small collectives can dissociate

themselves from communitarian life. Intellectual positions denouncing communitarian ideals oscillate towards universalist-individualist values, highlighting cosmopolitanism and/or highlighting the value of non-communitarian orientations. These can entail political convictions based on class or environmental consciousness, priorities given to professional standards as well as conscious contestations vis-à-vis any form of communal boundary-making. Such positionings are usually connected to elite social locations that allow individuals to afford their autonomy. They often go with the price of giving up communal belonging.

The second option was termed as 'rooted cosmopolitanism' by Kwame Anthony Appiah (2005). Communal orientations can be paired with cosmopolitan orientations and tend simultaneously to stress mobility, the importance of broad (global) horizons of interconnectivity as well as the value lying in communal boundary-crossing. Ascriptive belonging, that is, the dense webs of togetherness forged through familial and communal ties, reciprocities and commitments, as well as cosmopolitan aspirations are not seen as exclusive in this position, though. Rather the contrary. Late modernity is characterized by multiple belonging. But it goes without saying that navigating within the multiple parameters of belonging depends upon availability of resources. While the first option meant 'exit' from ascriptive belonging, rooted cosmopolitanism is likely to strengthen 'voice'. Resourceful minority members are likely to be those moving across majority-minority boundaries, triggering reforms, engaging in 'democratic deliberations', and forging ties in activist arenas.

The third option is having very little choice. In particular, in rural societies, minority existence evolves within clear-cut community demarcations. Hierarchical paternalistic structures are embedded in dense social ties of mutuality and commitment. Under the conditions of scarcity, these ties largely decide upon the availability of food, help and protection. Subordination under collective norms is therefore an

important prerequisite for enjoying the basic necessities of life. While the other two options envisage a complete or partial dissociation from communal life, should their norms become too oppressive, those persons confined to the third constellation can hardly afford to dissociate themselves from ties of belonging, which makes contesting collective norms particularly problematic. Given the differentials of power and wealth and the many risks involved in minority existence, leaving the confines of minority boundaries, as oppressive they may seem to weak members, is hardly a feasible option.

In her important contribution to 'minorities-in-minorities' research, Ayelet Shachar (2001) discusses the paradox of *multicultural vulnerability*. She refers to situations in which the rights of individuals inside the group are violated by the policies that are designed to promote their status as members of cultural group. Aiming at striking the balance between accommodating diversity without sacrificing individual rights, she proposes a no-monopoly model envisaging a *transformative accommodation*. The basic assumption is here that since members of cultural groups are at the same time citizens of a larger political community, they always have multiple affiliations. Both the cultural group and the state have legitimate claims on citizens belonging to their jurisdictions. This is buttressed by the fact that both the group and the state are viable and mutable social entities that are constantly affecting each other through their ongoing interactions. There is therefore in the self-professed interest of the group and the state to compete for the support of their constituencies and no entity should acquire exclusive control over the interests of the individual (Shachar 2001: 117ff).

Given the manifold vulnerabilities faced by individuals within cultural groups who are exposed to negative sentiments of 'outsiders' as well as to internal group pressure, state's guarantees in the field of social and economic rights, paired with far-reaching measures against discrimination and providing safety would help uncountable persons described here as 'minorities-in-minorities'. Yet, as necessary as they are,

such protective mechanisms would not solve the manifold dilemmas of belonging that are a common feature of late modernity.

NOTES

1. Literally meaning ground down, thus the oppressed.
2. For a comprehensive overview, see Manchanda (2009).
3. For a short account on Indian 'minorities-in-minorities', see Mahajan (2005: 93).
4. Nepalese politics are since the first constitutional acknowledgment of diversity in 1990 increasingly dominated by minority assertion. One of the two dominant discourses, that of social inclusion, names four major categories of minority existence as Janjatis (indigenous people), Madheshis (the inhabitants of the Southern region of Nepal), women and Dalits (whose minority existence has not been acknowledged in India). The discourse of state restructuring foresees a federal model with autonomous regions delineated along territorial boundaries determined on ethnic basis.
5. See Gellner, D., J. Pfaff-Czarnecka and J. Whelpton (2009, *passim*).
6. According to M. Sarkar, the Gujarat violence draws attention to 'the liminality of certain women vis-à-vis the state and the law'.
7. The official number being stated as 762, but according to Basu Ray Chaudhury (2009: 49) ca. 2000 dead would be an appropriate figure.
8. With more than 100,000 people being displaced (Basu Ray Chaudhury 2009: 49)
9. Vgl. 'Threatened Existence: A Feminist Analysis of the Genocide in Gujarat', Report by the International Initiative for Justice (IJI), Bombay, December 2003, pp. 33-45.
10. Quoted from Banerjee (2009: 71).
11. Despite displaying comparatively higher levels of education than in other parts of South Asia, 75% of Tamil women have enjoyed primary education as against 89% for all Sri Lankan women.
12. This is not a homogeneous category of course (Hassan and Menon 2004). Significant differences prevail according to socio-economic position, caste, ethnic affiliation and region.
13. For a thorough discussion of this option, see Mahajan (2005) who convincingly argues that it is on the one hand very difficult to impose internal reforms through democratic procedures upon minorities and that on the other hand the potentials of this option are restricted, given that vulnerable groups generally lack voice.

14. See *The Telegraph*, Calcutta, 20 September 2009: 6.
15. 'The result is that the Section remains to protect minors and guard against rape, but that mutual consented sexual acts between adults of the same sex are no longer criminal' (*EPW*, 11 July 2009: 5).

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