

Laws for the Protection of Interest of Minorities in India 20-21

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Abstract - According to many constitutions, majority rule & respect for minorities' rights are emphasized. In today's world, democracy mostly refers to a form of government in which the people themselves are in charge. The mission of the National Commission for Minority Affairs (NCMA). It is not defined in the Constitution of India, but minorities based on religion, language, and culture are recognized & protected by the Indian government. India's government established the National Council for Minorities to address the concerns of Muslims, Christians, Sikhs, Buddhists, & Parsis. Minority rights & protections in India have evolved over time, but it wasn't until the British ruled the country that they began to receive new attention or configuration.

Keywords - Minority Rights, Religious, Protection of Interest of Minorities, Constitution

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INTRODUCTION

The common thread of national integration & communal harmony binds India, a country of many religions, cultures, languages, and races. The unique constitutional notion of secularism and the legally mandated preservation and promotion of rights for all minority communities strengthen India's social plurality. In other words, India is a pluralistic society. In the Preamble of the Indian Constitution, secularism is enshrined. It protects the fundamental rights of all of its citizens, regardless of their ethnicity or religious affiliation. The judiciary, Human Rights Commission, & Minorities Commission are only few of the independent institutions that safeguard and promote these rights.

Initially, the Constituent Assembly had a very constructive & compassionate attitude to discussing the rights of minorities. In the Assembly, the members were debating whether to grant minorities particular rights to assure effective political representation, social & economic security, and the preservation of their religious, cultural, & educational freedoms. The reservations for Scheduled Castes & Scheduled Tribes in legislature and public jobs, on the other hand, were left untouched. In the end, minorities were not granted any particular rights except from cultural and educational rights. A new social order based on secularism and recognizing cultural and linguistic differences within the context of political and economic unity of the nation may have been the result of the Constituent Assembly's final adoption of the Constitution on November 26, 1949. The denial of reservations to minorities in public employment in the federal & provincial legislatures

was a terrible blow to their socio - political interests, and that cannot be disputed at this time.

CONCEPT OF MINORITY

The Indian Constitution does not fully define the term "minority," which necessitates further discussion. According to the Oxford English Dictionary, the suffix "ity" comes from the Latin word "minor" and refers to a little number. An individual who is a member of a minority team, a crew, or a group of people who share a common quality through birth that makes their team smaller than certain other firms in a society and may cause others to treat them unfairly, according to the Cambridge Dictionary definition. There is no definition of "minority" in the Indian Constitution.

To be sure, in its peripheral heading, Indian Article 29 makes mention of minorities. But it also says that all individuals residing in India or any region within it should be entitled to the freedom to preserve their own unique language, script, and culture. It further states that residents should be able to enroll in any public or state-funded educational institution, regardless of religion, color, caste, language, or any other factor.

National Commission of Minorities Act, Section 2, Clause (c) declares six communities as minorities under Section 2 (c). In fact:

- Muslims
- Christians
- Buddhists
- Sikhs

- Jains
- Zoroastrians(Parsis)

Article 30 of India's Constitution, on which this discussion focuses, exclusively mentions minorities within the context of religion & language.

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NATIONAL COMMISSION FOR MINORITIES

The National Commission for Minorities has been constituted as a statutory body under the NCM Act, 1992, in addition to the protections guaranteed in the Constitution & laws in existence. Among the duties assigned to the Commission by Section 9(1) of the Act are the following: monitoring the implementation of the constitutional & legislative safeguards for minorities; making recommendations for effective implementation of the safeguards to protect minorities' interests by the Central Government or the State Governments; and investigating specific cases.

NATIONAL & STATE HUMAN RIGHTS COMMISSIONS

It is mandated to investigate human rights violations, review the protections afforded by the Constitution & domestic laws; study international human rights treaties; promote research in the field; educate various sections of society; and synergizes the e-initiatives. They are able to award interim relief, suggest compensation or damages to be paid out, and initiate processes to prosecute or discipline wayward public authorities. National Commission for Women, National Commission for Child Rights, National Commission for Backward Classes, & Chief Commissioner for Disabled People shall be deemed members of the Commission for Minorities in accordance with Section 3(3) of the Protection of Human Rights Act (Amendment), 2019 (the 2019 Amendment). The Statutory Full Commission, which includes the Chairpersons of the National Commissions for Minorities, Scheduled Castes, Scheduled Tribes, & Women, is in charge of carrying out these duties. Section 21 of the Protection of Human Rights Act of 1993 stipulates the establishment of state-level commissions for the protection of human rights. It is NHRC's mission to prevent human rights violations, especially against the most marginalized members of society, as well as to safeguard and promote human rights in society. As part of the Commission's efforts to mainstream human rights, it is working with all stakeholders.

PROTECTION OF INTEREST OF MINORITIES

Protection of minority interests is defined in Article 29 by Article 29 of the Indian Constitution: -

- 1) Any portion of the citizen resident in India's territory or any part of it has the right to retain its own distinct language, script, & culture.
- 2) On the basis of religion, race, caste, language, or any of them, no citizen should be denied entry to any educational institution maintained by the State that receives aid from the State's money.

Clause(1)

Clause 1 implies the right to preservation for all groups of citizens who speak, write, or have a distinct cultural heritage. The state will not stand in the way of a particular group's determination to preserve its own language and culture. In order for a minority community to effectively retain its particular language, script, or culture, educational institutions are required as part of the right to do so, which is what Article 30 grants to all minorities (1). In contrast, article 29(1) neither governs nor influences the scope of article 30(1). Both have a distinct range of application. For Article 29(1), citizens of all backgrounds are covered, not just minorities. Like article 30(1), it doesn't just apply to groups with "different language, script or culture," but to all religious and linguistic subgroups as a whole. The right to "conserve" a language, script, or culture is spelled down in Article 29(1), but not in Article 30(1). It is not necessary to make use of article 30(1)'s right to preserve language, writing, or culture.

Clause(2)

This clause refers to students who are enrolled in state-funded educational institutions. No one should be excluded from such institutions because of their ethnicity, color, religion, or language. On the basis of religion, ethnicity, or other factors, Article 15 forbids discrimination against citizens. In the first place, Article 15(1) protects all citizens from the state, whereas Article 29(2) protects the state or anybody who refuses the right bestowed by it. While Article 15 protects all citizens from discrimination, it only applies to those who are denied admission to state-supported or state-aided educational institutions. As a last point, the specific grounds for discrimination are different in two articles. According to article 29, "place of birth," "sex," & "language" are not addressed.

Admission to a school is a privilege that each individual person possesses on his or her own, independent of any group or category to which he or she belongs. As a result, a state-funded school controlled by a minority cannot deny admittance to pupils from other communities. However, even if the school receives state funding, the minority community can reserve up to 50% of the seats for members of its own group in a school it built and administers. Although minority educational institutions can restrict admissions to members of their own groups, the state cannot order them to do so. No legal right to freely profess, practice, and disseminate their

faith in a college administered by a minority community is conferred by Article 29(2), however, to members of other communities. When a student is denied admission because he or she lacks the necessary qualifications or is expelled from an institution due to misconduct, Article 29(2) cannot be claimed.

This problem was resolved by adding clause (4) to article 15, which states that nothing in article 15 or article 29(2) prevents the state from making any particular provision for the progress of socially & educationally backward classes of citizens or schedule castes & schedule tribes. The state has the authority to set aside seats in state colleges for citizens from economically or educationally disadvantaged backgrounds, such as members of the SC or ST communities.

RIGHTS OF MINORITY TO ESTABLISH & ADMINISTER EDUCATIONAL INSTITUTIONS

As stated in Article 30 of India's Constitution, minority groups have the right to establish and oversee educational institutions: -

Religious & linguistic minorities alike should be able to start and run educational institutions of their own choosing. To ensure that the right provided by paragraph (1) is not restricted or abridged, the State must ensure that the amount specified by or determined under such law to acquire such property is such as would not restrict or abrogate the right granted under that paragraph.

Second, the State shall not discriminate against any educational institution because it is managed by a minority, either based on religion or language.

Clause(1)

Clause (1) grants minorities based on religion or language the right to create and run educational institutions of their own choice. To restrict the minority's freedom to construct and run educational institutions based on their own language script and culture, Articles 29 and 30 should be linked together. Reasons for this include: Article 29 grants fundamental rights to all citizens, including the majority, whereas Article 30(1) grants all minority the same rights. As a last point, Article 29(1) focuses on languages and scripts, while Article 30 deals with minorities based on religion or language. For the third time, article 30 deals with the right to establish and run educational institutions of minorities of their choice rather than the right to preserve language, script, or culture.

To round things out, Article 29(1) allows for the preservation of language, script, or culture to be accomplished without the involvement of educational institutions, and Article 30(1) allows for the establishment and administration of educational

institutions solely for the benefit of the minority group. It is possible for a minority to run a religious education institution that has nothing to do with the preservation of language, script, or culture. Even though Article 29(1) may overlap with Article 30, it cannot limit the latter's width. Article 30's scope is based on the fact that only linguistic or religious minorities are guaranteed the right to create and run educational institutions of their own choosing. Language minorities have equal protection under the law, as stated in article 30(1). In other words, it's impossible to remove secular education from article 30.

According to Article 30, the term "minority" applies to any community that is less than 50% of the population of a specific state as a whole, even though the Supreme Court has stated that it refers to any community that has fewer than 50,000 residents. Although they are a minority in one section of the state, they are not considered a minority for this article's definition of minority. An ethnic group's size cannot be gauged in terms of the country's total population. Minorities in relation to the state must be recognized if it was a state statute. According to Article 30(1)'s usage of the term "minority" as a way to distinguish it from "any segment of citizen" in Article 29(1), minorities are national minorities or minorities acknowledged in the context of the entire nation. Even if the national majority is a minority in a single state, such as the Hindus of Punjab or Jammu & Kashmir, article 30(1) would no longer apply.

Article 30(1) does not mention citizens, yet the group eligible to benefit from the protection of that article must be a group of people residing in India. Article 30(1) does not mention citizens. To qualify as "the minority" under Article 30 of the Indian Constitution, one must be a citizen. Non-residents of India are not entitled to set up educational institutions under Article 30(1). Minorities have the freedom to choose which educational institutions they want to attend. It does not state that religious minorities should set up their own schools solely for the purpose of teaching their own language. Article leaves it to the reader's discretion to build educational institutions that serve both the objective of preserving their faith or culture and the purpose of providing a comprehensive general education to their children. But minorities are not allowed to have educational institutions that are only dedicated to their advantage.

In *D. A. V. College v. State of Punjab*, it was noted that a linguistic minority for the purposes of art. 30(1) must at least have a different spoken language. Those who speak a language with a unique script are not required to be a part of a different ethnic group. If a particular piece of legislation is being challenged, it should be determined in relation to the population of the state in which it is being challenged, for example, if it is

the State Legislature. They are entitled to the rights protected by Article 29(1) because they are a group of citizens distinguished by their use of Devnagri and by Article 30(1) because they constitute a religious minority. Subsections (2) & (3) of s. 4 do not, in our opinion, violate any of the petitioners' constitutional rights under either art. 29(1) or art. 30(1). Neither the religious teachings of Guru Nanak, nor the Sikh culture, are mandated for Colleges linked with it in any form.

As a result, religious and linguistic minorities should only be assessed in reference to the specific legislation that is being contested, namely the State Legislature, where these minorities should be assessed in respect to the State's population.

When it comes to religion, religious instruction is defined as that which is used to teach people about the beliefs and practices of a certain sect or denomination. Teaching about the life and teachings of any famous Indian saint and how they impacted Indian and global civilizations cannot be termed religious instruction. It is merely academic study. As a one-language state, Punjab has no basis for discrimination, nor can the provision for the study of Guru Nanak's life and teachings be a basis for a complaint under art. 14 of the Constitution, which prohibits discrimination based on religion. In order to exercise one's right to establish an association, a group of people must come together freely and do so for a valid purpose and a shared interest. To form an association or union, for example, is within the scope of this right. There is no effect on the right of the D.A.V. College Trust and Society to form an association under Section 5 of the contested Act. Since there is no violation of Article 19(1), there is no violation (c).

Institutional self-determination is a privilege accorded to people of color. Minorities based on religion do not need to set up their own educational institutions solely to teach their own language. Article leaves it to the reader's discretion to construct educational institutions that serve both the objective of preserving their faith or culture & purpose of providing a thorough general education for their children. Minorities, on the other hand, are not allowed to their own educational institutions.

Clause(2)

Clause (2) is merely a part of the constitution's non-discrimination clause & does not override anything in that clause (1). The sentence is negative: the state is therefore obligated not to discriminate in aiding educational institutions on the basis that the institutions are managed by minorities, religious or linguistic minorities or linguistic minorities. The phrase does not imply that the state has the authority to impose restrictions on minorities' rights to create & operate educational institutions. As stated in Article 30 (1), the minorities' right to establish an educational institution of their choice is intended to be a real right.

MINORITY RIGHTS FLOW FROM ARTICLES 14,15,19(1)(2) 21, AND 26 (A)

While it is true that Article 30(i) exclusively mentions the freedom of minorities to create and govern educational institutions, this does not mean that the majority populations are denied the same right. In order to provide additional assurance that it is incorrect to imply that minorities were considered backward & required concessions through article 30(i), it was deemed necessary to provide a separate mention for the rights of minorities. The goal was to ensure that they would not be subjected to unfair treatment. It was not meant to be a slap in the face to those who had been overlooked. Because of articles 14 and 15, majority communities have a right to receive similar treatment in matters of recognition, affiliation, & recognition from the government or non-displacement management when it comes to educational institutions established by the majority, as is accorded to minority institutions of course conditions can and will be imposed in relation to aid, affiliation, and recognition to ensure a standard of teaching, but the same should follow from articles 14 and 15.

The idea that the majority in a democracy with universal adult voting can take care of itself and protect its own interests by giving elected representatives a mandate to represent only the minority groups that require protection is, with all due respect to the anguished judge, too naive to be accepted. Modern parliamentary democracy is based on a party system that in India, particularly in the post-mandal era, is founded largely on the basis of caste and communal combination. Teachers, on the other hand, are a vote bank for management's functional institutions. The bulk of Hindus are not a single, homogeneous group. It is a society that is deeply divided. It has not made things any simpler for electoral arithmetic to lead to all kinds of and combinations because of the caste and sub caste split and the same court defense of legislative and executive wisdom on article.

Articles 19(i)(g) and 26(a), which make no distinction between majority and minority populations, likewise arise from this freedom to construct and run educational institutions, as stated above. As a fundamental right under Article 21, students and their parents both have the freedom to choose the educational institutions in which they would like their children to receive their education. To govern educational and charitable institutions in accordance with the community's beliefs of what is best for the community and for the distinction for religion or language minorities or majorities is a fundamental right for every community.

To put it another way, this means that in the same way that majority institutions are treated as

unconstitutional when it comes to statutory schemes of administration and the appointment of authorized controllers, so are majority institutions treated when it comes to provisions relating to the displacing of managements through statutory schemes of administration or the takeover of institutions and the appointment of authorized controllers.

Mismanagement and waste on the part of private mill owners or college administrators were the root of each case's intervention. Instead of improving, the new bureaucrats have made matters worse by caving in to political pressures rather than standing by the industry institution they were supposed to represent. As a result, the institutions are currently being re-privatized in order to ensure that their management is better and more evenly disciplined. Teacher discipline and performance have deteriorated dramatically as a result of management losing control over teacher hiring and firing. There are a large number of educators who will not even hear what their principal or department head has to say about the administration. Private tutoring and the operation of coaching schools are commonplace excuses for absenteeism. Of course, the same regulatory provisions that have been regarded as necessary for the safety of instructors of minority institutions would remain in reference to professors of majority institutions as well. Without emasculating the management, minorities should have the same protections against mismanagement as minorities. Every institution should be like a workshop for students, according to Jag Mohan Reddy J. and Ray C.J in St. Xavier's.

CONCLUSION

The National Council of Minorities (NCM) has notified the relevant authorities of the violations of minorities' constitutional rights protected by Articles 29 & 30 of the Constitution. When the Commission looked into this issue in depth, it came to the conclusion that educational institutions controlled by minorities should retain their independence. Ethnic, religious, and cultural minorities have always been present in human civilizations. As a result, minority in democracies endure prejudice and even hostility from the ruling majority, making it difficult for them to achieve their equal rights as citizens. Minorities everywhere seek particular assurances, rights and special provisions as well as adequate institutional arrangements in order to live with dignity as citizens & members of a minority group.

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