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The Judicial Architecture Of Minority Protection In India

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ABSTRACT

The Constitution of India grants numerous rights to its citizens, and among them are specific protections for minorities. The framers of the Constitution aimed to meet the hopes and aspirations of minority communities by safeguarding their educational rights. "The Preamble of the Constitution outlines its purpose, promising Justice – social, economic, and political, and ensuring liberty of thought, expression, and worship, along with equality of status, all to promote the unity and integrity of India." With this vision, the framers included various provisions within the Constitution, not only as Fundamental Rights but in other parts as well, to protect minority communities.

While the Constitution clearly outlines the rights of minorities, it does not explicitly define who qualifies as a minority. However, the Supreme Court of India, as the ultimate interpreter of the Constitution, has played a key role in clarifying the concept of minorities and protecting their rights through its rulings.

This project aims to explore the constitutional provisions related to minority rights and examine the judiciary's approach to interpreting and upholding these rights.

INTRODUCTION

Mahatma Gandhi once said, "The true measure of a nation's civilization lies in how it treats its minorities." Keeping this in mind, the framers of the Indian Constitution made sure to include provisions that would safeguard the rights and status of minority communities. The Constitution grants six Fundamental Rights to

its citizens, and some rights even extend to non-citizens. Among these rights, several specifically focus on protecting minorities.

The founding fathers of the Constitution aimed to meet the hopes and aspirations of minority communities, particularly by securing their educational rights. During the fifth session of the Constituent Assembly, Dr. Rajendra Prasad, the Chairman, assured minorities that they would receive fair and just treatment in independent India. He promised that their religion, culture, and language would be protected, and that they would enjoy all the rights and privileges of citizenship, as long as they remained loyal to the country and its Constitution.¹ He also emphasized that the nation's focus would be on eliminating poverty, hunger, disease, and exploitation, and ensuring decent living conditions for all its people, regardless of their background.²

What are some examples of communal violence in India?

- The 1948 communal riots following Partition were devastating, especially in Noakhali, Bengal, and several villages in Bihar, leading to the tragic loss of hundreds of lives.
- The 1984 anti-Sikh riots in Delhi erupted after the assassination of Prime Minister Indira Gandhi, claiming the lives of over 2,700 people.
- In 1989, the Bhagalpur riots in Bihar, sparked by police brutality, resulted in over 1,000 deaths and the displacement of thousands.
- The 1992-93 riots, triggered by the demolition of the Babri Masjid, spread from Mumbai across various parts of India, leaving a deep scar on communal harmony.
- The 2002 Gujarat riots, which followed the Godhra train burning incident, led to the loss of over 1,000 lives, with the majority of victims being Muslims.
- In 2023, a tragic incident occurred on a train in Gurugram, Haryana, where a police officer opened fire, killing three Muslim passengers, further highlighting ongoing communal tensions.

These incidents highlight the persistent history of communal tensions and violence between religious communities in India, which have resurfaced time and again throughout the decades since independence.

¹ Subhash C. Kashyap, *The Framing of India's Constitution* (Universal Publ'g Co. Pvt. Ltd. 1968).

² Constituent Assembly Debates Vol. III, IV, V, VII

STATEMENT OF PROBLEM

- Special provisions in the Constitution and various laws aimed at protecting minority rights in India are often seen as conflicting with the core principles of liberal democracy. Liberal democracy, in theory, focuses on the recognition and protection of individuals as citizens, rather than as members of specific groups based on religion, race, or ethnicity.
- The National Commission for Minorities (NCM) was established by Parliament to provide statutory protection for minority rights. However, one notable aspect of this law is that it does not clearly define who qualifies as a minority.
- In the *P.A. Inamdar v. State of Maharashtra* case, the court ruled that educational institutions have the freedom to set their own fee structures. However, the Minority Educational Institutions Act, passed by the central government, has been criticized for allowing commercial interests to dominate. This raises concerns that such practices could harm low-income students who rely on minority institutions for affordable education.

OBJECTIVE

- To examine the judicial response in this area.
- To explore the rights of minorities to establish and manage educational institutions.
- To investigate the social and political foundations of minority cultural and educational rights.

ANALYSIS

Definition of Minorities

Although the Indian Constitution guarantees certain rights to the minorities, it does not define who would fall within the definition of a minority. The Supreme Court of India, which has the final say in interpreting the Constitution, has held that for defining a community as a minority, the population of the group should be less than 50% in a particular area. So according to that Christians, Muslims and Anglo Indian would be minorities in *Kerala*.³ The moment there is a minority in a community, whereas in another community they might not be a minority, a challenge arises. This further develops variation in the state of being a minority depending on the location one is in, making it really complex.

The issue was further taken in the case of TMA Pai foundation

³ In Re Kerala Education Bill AIR 1958 S.C.956

case ⁴ in which it was clarified that for the purpose of Article 30, minorities cannot have different meaning depending upon who was legislating the minority status i.e Union or State.

In A.M.Patroni vs. Kesavan ⁵, A division bench of the Kerala High Court ruled that the Constitution does not clearly define the term "minority." In the absence of a precise definition, the court stated that any religious or linguistic group making up less than 50% of a state's population is considered a minority.

In Bal Patil v Union of India ⁶ The decision established that the status of a community as a minority should be determined on a state-by-state basis rather than applying a national standard. Even though Articles 29 and 30 of the Constitution don't specifically define "minority," the Preamble and Articles 25 to 30 indicate that this term refers to unique groups needing protection from potential threats to their religious, cultural, and educational rights posed by the majority.

In St. Xaviers college v State of Gujarat⁷, It was noted that the term "establish" refers to the right to create and set up an institution, while "administer" means having the authority to manage and run it effectively. Article 29 applies to all citizens, including those from the majority community, and focuses on the right to preserve their unique language, culture, or script. In contrast, Article 30 specifically grants minorities, based on religion or language, the right to establish and run educational institutions. Thus, Article 29 is a broader right to protect cultural and linguistic identity, whereas Article 30 is more narrowly focused on the management of educational institutions by minority groups.

Hence this very well explains our 2nd statement of problem and tries to define the term minority which the parliament has failed to do while enacting statutory provisions for NCM.

Constitutional Provisions for protecting the interests of minorities

The Preamble of the Constitution outlines its purpose, emphasizing the goal of securing justice—social, economic, and political—while also guaranteeing liberty of thought and worship and promoting equality in status. These elements are intended to uphold the unity and integrity of India. Part III of the Indian

⁴ TMA Pai and Ors. Vs. State of Karnataka, A.I.R SC 355 at p-418 (2003)

⁵ A.M Patroni Vs. Kesavan, A.I.R Ker 75 at p-76 (1965)

⁶ Bal Patil Vs. Union of India, AIR SC 3172 (2005)

⁷ St. Xaviers College Vs. State of Gujarat, AIR SC (1979)

Constitution details various rights for minorities, aligning with the overall aims and objectives set out in the Constitution. In the case of *Maneka Gandhi v Union of India*⁸ - Justice Bhagvati said "these Fundamental rights represent the basic value cherished by the citizen of India since the Vedic times. The aim of the Fundamental right to protect the dignity of the individuals. These rights are regarded as fundamental because they are most essential to the individual to live a life with full dignity. The object behind the inclusion of Part III is to establish a Government of Law or Rule of Law and not of Man."

The constitutional framework for minority rights in India is primarily enshrined in the Indian Constitution, which guarantees various fundamental rights to all citizens, including minorities. Here are some key provisions and mechanisms within the Indian Constitution that protect and promote minority rights:⁹

- **Articles 29 and 30:** These articles focus on protecting the rights of minorities, especially in education. Article 29 ensures minorities have the right to preserve their culture, language, and script, while Article 30 gives them the freedom to establish and manage their own educational institutions.
- **Articles 15 and 16:** These provisions prohibit discrimination based on religion, race, caste, sex, or place of birth. They ensure equal opportunities in public employment and protect minorities from discrimination when accessing public services and job opportunities.
- **Article 17:** This article abolishes untouchability and prohibits its practice in any form, reinforcing the commitment to equality.
- **Articles 25-28:** These articles guarantee religious freedom for all, including minorities. They protect the right to profess, practice, and promote one's religion, ensuring that minority communities can practice their faith without interference.
- **National Commission for Minorities (NCM):** Established by the National Commission for Minorities Act, 1992, the NCM is a statutory body responsible for safeguarding the constitutional rights of minorities. It also investigates complaints related to the violation or deprivation of their rights.
- **Protection of Cultural and Educational Rights:** In addition to the specific protections in the Constitution,

⁸ *Maneka Gandhi Vs. Union of India*, AIR SC 597 (1978)

⁹ India Const.

minority communities have the right to preserve their distinct culture, language, and heritage.¹⁰

In summary, India's constitutional framework provides robust protections for minority rights, demonstrating the state's commitment to maintaining diversity, pluralism, and inclusivity in a democratic society.

Role of judiciary in protecting minority rights in India:

The judiciary plays a key role in protecting minority rights in India by interpreting and enforcing the constitutional provisions designed to safeguard these communities. Some of its crucial functions include:

- **Interpreting and Upholding Constitutional Rights:** The judiciary interprets the Constitution's provisions that protect minority rights, ensuring they are effectively applied to safeguard the interests of minority groups.
- **Enforcing Fundamental Rights:** As the protector of fundamental rights, the judiciary ensures that the rights of minorities are not violated by the government or any other entity. It intervenes when necessary to prevent discrimination, persecution, or other infringements.
- **Preventing Discrimination:** The judiciary works to prevent any form of discrimination against minority communities, whether based on religion, caste, language, or ethnicity. It ensures that all citizens, including minorities, are treated equally under the law.

In essence, the judiciary serves as a guardian of the Constitution and the fundamental rights of all citizens, including minorities. By ensuring justice, equality, and protection.

Landmark Judicial decisions on minority rights in India:

- Mohd. Hanif Quareshi v. State of Bihar¹¹ (1958): In this case, the Supreme Court affirmed the right of Muslims to slaughter cows for religious reasons, highlighting the importance of safeguarding religious practices for minority communities under Article 25 of the Constitution.
- Minerva Mills Ltd. v. Union of India¹² (1980): The supreme Court ruled that minority rights are not just privileges, but

¹⁰ C. Jain, *The Constitution of India: Select Issues and Perceptions* (Taxman Publ'n's Pvt. Ltd. 2000).

¹¹ Mohd. Hanif Quareshi v. State of Bihar, AIR SC 731 (1958)

¹² Minerva Mills Ltd. v. Union of India, AIR SC 1789 (1980)

fundamental rights enshrined in the Constitution, stressing the need to protect the interests of minority groups

- S.R. Bommai v. Union of India ¹³ (1994): The Supreme Court underscored the secular nature of the Indian Constitution, upholding the rights of minorities to practice and share their religion freely, while ensuring protection against religious discrimination.

These judicial rulings highlight the crucial importance of protecting minority rights in India and serve as key legal precedents for ensuring the interests and freedoms of minority communities are upheld across the country.

What is the limit of reservation?

Article 15(5) explains that neither Article 15 nor Article 19(1)(g) prohibits the state from making any law to provide for the reservation of socially and educationally backward classes of citizens, including SCs and STs. Such laws relating to admissions can thus be made both in state-run as well as private educational institutions, except of course in Article 30(1) minority institutions. This amendment was brought to negate the effect of three major judgments of the Supreme Court: T.M.A. Pai Foundation v. State of Karnataka, Islamic Academy v. State of Karnataka, and P.A. Inamdar v. State of Maharashtra are discussed in detail below:-

- In T.M.A Pai Foundation v State of Karnataka ¹⁴ It was held that the State cannot prescribe seat reservations for any admission in privately run educational institutions. It could, instead, be on the basis of a common entrance test conducted by the State and merit.
- In P.A Inamdar v State of Maharashtra ¹⁵ The court overturned the Islamic Academy ruling, which had allowed the State to set quotas for admissions in private professional colleges. It was decided that the State cannot impose seat reservations in these private institutions. Instead, admissions should be based on a common entrance test administered by the State and on merit.

¹³ S.R. Bommai v. Union of India, 3 SCC 1 (1994)

¹⁴ T.M.A Pai Foundation v State of Karnataka, AIR SC355 (2003)

¹⁵ P.A Inamdar v State of Maharashtra, AIR SC 3226 (2005)

Other Provisions under Constitution of India

- **Article 38(1):** This article mandates that the State must actively work to promote the welfare of its citizens by ensuring social, economic, and political justice for all.
- **Article 51(A) (e):** It calls for promoting harmony and a sense of unity among all Indians, regardless of religious, linguistic, or regional differences, while also urging the renunciation of practices that demean the dignity of women.

Rights of Minorities as Human Right

- Article 7 of the Universal Declaration of Human Rights (UDHR) addresses equality before the law and prohibits discrimination.
- Article 21 (2) of the UDHR ensures equal opportunity for all individuals.
- Article 3 of the UDHR guarantees the protection of life and personal freedom.
- Article 22 of the UDHR provides the right to social security.
- Article 18 of the UDHR upholds the freedom of conscience and religion.¹⁶

In *Keshwanand Bharti v State of Kerala*¹⁷ The Supreme Court noted that while the Universal Declaration of Human Rights isn't legally binding, it reflects how India perceived human rights when the Constitution was adopted. However, it's crucial to recognize that:

SUGGESTIONS

The key to resolving this tension is finding a balance between **individual equality** and **group protection**. The Constitution can maintain protections for minorities while ensuring that these provisions do not infringe on the rights of individuals or other groups. For example, policies could focus on helping disadvantaged **individuals** within minority communities, rather than granting blanket benefits to the entire group.

Special provisions should be viewed as temporary measures to uplift marginalized groups (emphasis intended), not permanent features. Once social and economic equality is achieved, such provisions can be gradually phased out. For instance, periodic reviews of the impact of these protections can help assess when

¹⁶ P. Jaganmohan Reddy, *Minorities and the Constitution* (Univ. of Bombay 1981).

¹⁷ *Keshwanand Bharti v State of Kerala*, 4 SCC 225 (1973)

they are no longer needed.¹⁸

Instead of focusing only on group-based provisions, governments could expand universal access to education, healthcare, and employment opportunities for all economically and socially disadvantaged citizens, regardless of their group. This would reduce the perception of favoritism while still addressing inequalities ***which answers our 1st statement of problem on how important it is to maintain a balance between minority rights and principles of liberal democracy.***

Now, addressing our 3rd statement of the problem, the P.A. Inamdar v. State of Maharashtra case permitted institutions to set their own fees, which has subsequently raised concerns about affordability for low-income students, as commercial interests may impact the accessibility of education. Following are a few ***resolution approaches:-***

- The problem can be partially addressed through legislative measures. The Parliament or State legislatures could enact laws that encourage or incentivize minority educational institutions to voluntarily offer a certain number of seats or scholarships to students from economically weaker sections, without infringing on their Article 30(1) rights. This could be done by offering tax benefits, grants, or other subsidies to institutions that admit a certain percentage of students from low-income backgrounds.
- While the P.A. Inamdar judgment upheld the rights of institutions to devise their own fee structures, courts could be asked to ensure that these rights are not exercised in a manner that contradicts broader constitutional goals of equality and social justice. There could be a review of whether the autonomy granted to these institutions conflicts with the right to education for all, especially the economically weaker sections.
- The government could expand scholarship programs for students from disadvantaged backgrounds seeking admission to private and minority educational institutions. By providing targeted financial assistance to such students, the State could help reduce the barriers to education caused by high tuition fees in these institutions, without directly interfering with their fee structures.¹⁹

¹⁸ Ramesh Narain Mathur, The Right of Linguistic Minorities: Their Protection and National Integration, in *Minorities and the Law* 353, 353-67 (Mohammad Inam ed., Indian Law Institute 1992).

¹⁹ P.M. Bakshi, Right of Minorities, 29 J. Indian L. Inst. 580, 580-84 (1987).

CONCLUSION

The Indian Constitution reflects a deep commitment to justice, equality, and inclusivity, with special provisions designed to protect the rights of minority communities. While these rights are firmly established, their interpretation and implementation largely fall to the judiciary. Over time, important court rulings have expanded and reinforced the protection of minority rights, particularly in areas like education and religious freedom.

This project examined how the judiciary, through its interpretation of key constitutional articles like 29 and 30, has worked to uphold the cultural and educational rights of minorities. The courts have consistently emphasized the need to preserve the autonomy of minority institutions, while also balancing this with broader goals of equality and social justice. The ongoing challenge remains in finding the right balance between individual rights and protections for specific groups, which is a key issue in India's legal landscape. The judiciary plays a crucial role in maintaining this balance, ensuring that minority communities are not subjected to discrimination while promoting social harmony. The work of the National Commission for Minorities and the shortcomings of certain laws, such as the Minority Educational Institutions Act, highlight the ongoing debates about how best to protect minority rights within a liberal democracy. Supporting minority communities without compromising the broader principles of equality is crucial for sustaining India's diverse society.

In essence, this project highlights that protecting minority rights is not simply about safeguarding the interests of specific groups; it's about building a society where diversity is celebrated, and every citizen, regardless of their background, has the opportunity to live with dignity and respect.

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