

# Minorities' Rights in India's Constitution to Protected Academic Rights

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## Abstract

An ethnic group is a collection of people who share a common ancestry, language, religion, and other characteristics. Multicultural, multilingual, and home to a wide variety of religions and ethnicities, India is really a melting pot. The protection of minority groups' cultural and educational rights is crucial to their development. The Indian Constitution's protections for the country's many vulnerable minorities are admirable. For every topic involving underrepresented groups, the topic of equality is crucial. The elimination of bias and parity with the majority are two of the most often voiced demands from marginalized groups. A three-judge panel of the Supreme Court of India heard arguments over whether or not this clause was constitutional in *Society for Unaided Private Schools of Rajasthan vs. Union of India*.

**Keywords:** *Rights, minorities; international, legal, framework; cultural, rights; religious rights; constitutional law; democracy.*

## 1. INTRODUCTION

People sharing culture, a language, a system of beliefs and traditions are called an ethnic group. In the 19th century, some of the ethnic groups came together and proclaimed their nation-states over the territories they live on. Some ethnic groups inhabiting the same territories are quite different and didn't want to change their language, religion or tradition or to unify the nation that had been formed and some groups were forced to change their nationalities due to shifting state borders. These groups may be culturally different for the mainstream society but they want to preserve their identity. They are a set of people who are less in number and evidently distinct and unique from the majority. In India, we have multiple religions, cultures, traditions and heritage. There are 8 Major religious belief systems with their distinct heritage and culture. From Kashmir to Kanyakumari there are 22 official languages with more than 800 dialects available. In a tight-knit democratic society like India, minority groups are respected for being different and although they enjoy minority rights in community with others belonging to a minority group is an individual choice. Minority word comes from the Latin word 'Minor' and joins with the 'it' suffix to make meaning of 'small in number'. According to the United Nations, 'Any group or community which is socially, politically and economically non-dominant and inferior in the population are minorities.' The constitution of India has not defined the word 'minority' anywhere.

India is home to people of many different cultural backgrounds and religious beliefs. Out of a total population of 1028 million, the 2011 Census of India found that 827 million (80.50%) were Hindu, 138 million (13.4%) were Muslim, 24 million (2.3%) were Christian, 19 million (1.9%) were Sikh, 8 million (0.80%) were Buddhist, and 4 million (0.4%) were Jain. Another 6 million or more have begun practicing non-Christian faiths, mostly tribal religions. Countries that share a religion with India surround it on all sides. Bangladesh and Pakistan both claim Islam as their official religion; Nepal is a Hindu nation; while Sri Lanka gives Buddhism particular importance. In contrast, India is a secular nation. That implies the government must be fair to people of all faiths. People of all faiths enjoy the constitutionally protected freedom to "profess, propagate, and practice" their faiths freely. The diversity of India's ethnic groups, religious beliefs, and cultural practices is essential to the country's identity. When it comes to protecting a democracy, a nation like India relies on its secular foundation. The 18th of December is recognized as Minority Rights Day. Constitutional safeguards for vulnerable groups. It's important to define a minority group before delving into the protections afforded by the Constitution.

The protection of minority groups' cultural and educational rights is crucial to their development. Children from minority groups benefit greatly from exposure to their culture, language, and script, thus protecting these elements is crucial. It is impossible for a community to advance without education, and no civilization can be

transformed without education. Scientists have discovered a wide chasm between India's minority and majority populations. As an issue, minorities have been around for quite some time. The British Empire enacted it using the "Divide and Rule Policy" formula. Almost everyone here remembers firsthand the British "hide and seek game" during and after the nation was divided. The lengthy treacherous British rule in Pakistan led to the religious partition of the nation and the proclamation of an Islamic state. At the period of partition, looting, murder, pillage, and widespread devastation of the opposing community left wounds on the political body of India.

The founders of the Constitution sought to appease the hopes, dreams, and desires of the minority by protecting their access to higher education. The Chairman of India's Constituent Assembly made the following promise to the country's minorities during its fifth session: "To all the minorities in India we provide the assurance that they will get fair and just treatment and there would be no discrimination in any kind against them. They will be guaranteed protection for their faith, culture, and language; granted full citizenship rights and responsibilities; and asked to pledge allegiance to the United States and its Constitution.

We pledge to work tirelessly to eliminate inequality, discrimination, and exploitation, as well as to improve people's access to a minimum standard of life. The rights of minorities are protected under the Indian Constitution, namely Articles 29 and 304 of Part III. Reviewing the Indian Constitution, one discovers that the term "minorities" is used just four times. Use the term "minorities" in the article 295 headnote. Article 30's head note and paragraphs (1) and (2) of paragraph (6) also use the term "minorities" or "minority." It's worth noting at this point that Article 30 uses the term "minorities" in two different religious and linguistic contexts.

People in India practice a wide variety of faiths and cultural observances. India's linguistic diversity is an integral part of the country's cultural heritage. Taking a phrase from Justice Jharkhand, we may say that "the repeats through the fabric of the country the golden thread of a fundamental natural oneness, notwithstanding the variety of religion and language." Its religious beliefs, linguistic makeup, and cultural practices are all over the map. They have all left their impact on Indian politics, and modern India is a culmination of their influences. The Indian Constitution's framers actively sought to bridge cultural divides. They put out much effort to instill a sense of unity in them. So, they abolished distinct electorates and substituted a system called Joint Electorate. Certain protections were made obligatory for minorities. To quote from the Hon. Justice of Jharkhand: "To avoid giving anybody the impression that certain people are first-class citizens and the others are second-class, these measures amounted to a kind of Charter of Rights for the minority groups. On the 13th of December, 1946, Jawahar Lal Nehru proposed the Objective Resolution at the inaugural meeting of the constituent Assembly. In it was a promise that "Articles 25–30 was added to India's constitution with the intention of protecting the rights of the country's religious and linguistic minorities and giving them a stable foundation. These provisions were included to ensure that the country's minorities, backward and tribal areas, and other disadvantaged classes would be adequately protected under the law. Additionally, all religious and linguistic minorities in our country have the freedom to establish and lead schools of their own choosing under Article 30(1) of our Constitution. The State must not discriminate against any educational institution because it is managed by a religious or linguistic minority, as set out in Article 30 (2). The right to private property was removed from the Bill of Rights as part of the 44th amendment to the Constitution, which was ratified in 1978. Nonetheless, these Amendments makes an exemption for minority serving educational institutions. Furthermore, Article 30 (1-A) of the Constitution (Forty-fourth Amendment Act, 1978) explicitly stipulates that in passing any legislation allowing for the forcible purchase of any property of an educational institution governed by a minority,

## 2. LITERATURE REVIEW

**Vineeth Thomas (2017)** The concept of a minority is well-established in several fields of study and everyday discourse. The Oxford English Dictionary defines "minority" as "the smaller number or component," specifically "the smaller number or section constituting less than half of the total." Academic literature provides a more nuanced and contemporary account of the minority. To quote eminent sociologist Louis Wirth: "a group of people who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment, and who therefore regard themselves as objects of collective discrimination." There is a wide range of cultural, linguistic, religious, racial, ethnic, socioeconomic, political, and other distinctions among the people who call India home. Hinduism, which is practiced by 79.80% of the population, is the largest religion in India despite the country's religious diversity. Islam, Christianity, Jainism, Buddhism, Parsi, Sikhism, etc. are all minority faiths in India. When there is a large demographic gap between the adherents of different faiths, it may easily spark riots and acts of communal violence. Because of this, members of minority religions are more susceptible to violence from adherents of the dominant faith.

India's past is marred by violence and hatred between different religious groups. An important justification for India's fading legacy on the basis of intolerant religious attitudes is the Partition of India. The forefathers and architects of the Indian Constitution were extremely specific and careful to include such provisions in the Indian Constitution that may curb the communal violence and defend the rights of the minorities, in light of the recent memories of horrific communal riots and mutinies. This paper's goal is to shed light on the many sections of the Indian constitution that try to prevent communal insurgences, defend the rights of minorities, and maintain societal values of secularism and brotherhood in this setting. How minorities are seen and handled in India's founding document will also be the subject of this paper's investigation.

**Faisal Mahmood (2020)** The right to education is seen as both a basic human right in its own right and as a means to the realization of other human rights, as described by the United Nations Committee on Economic, Social, and Cultural Rights. The United Nations (UN) has enshrined the right to education across its many agreements in an effort to realize its stated objective of providing education to all people. This is a right affirmed by several regional and national documents which apply within their respective jurisdictions. The United Nations and almost all governments, including India, make specific arrangements for minority populations in the realm of education. While states and nations have legal commitments to provide equal access to education, minorities' educational rights are seldom protected in practice. As such, this paper seeks to clarify the provisions connected to the right to education of minorities under different international and national agreements and to address the concerns that form a barrier for the minority in enjoying these rights. The article has been updated to provide a thorough review of constitutional and legislative laws concerning minority education in India. The inability of governing bodies to erase the defects at the implementation level, which have become an impediment to fulfilling the constitutional slogan of equal opportunity, is also addressed, along with proposed alternatives.

**Dr. Nehaluddin Ahmad (2021)** Several constitutions across the globe show how to balance majority control with protections for minorities. Articles in each constitution prohibit the majority from oppressing the minority. In modern times, democracy has come to mean a form of governance in which power is squarely with the governed. When discussing civic rights, the subject of minorities' rights naturally arises. As a result, the premise behind minority protection is that linguistic, cultural, and religious diversity are fundamental to the ideal of a democratic and equitable society. This study presents an alternate explanation for the global relevance of minority rights and provides further insight into the benefits of a fair and transparent system for allocating resources across nations. Through this lens, the rights of international minorities address the injustices created by international law as it organizes international political reality into a legal system. This article explores the potential unintended consequences of religious freedom in India's democratic system. Indian democracy, previously regarded extraordinary in extent and length, has been eroded by the growth of xenophobic nationalism and threats against religious minorities, despite the fact that the Indian constitution provides autonomy to its religious minority and ensures minorities their liberties. Minority protections and rights to practice their religion freely have also been eroded by the COVID-19 pandemic. These tendencies have been noticeable for decades; nevertheless, they have accelerated significantly during the last several years, and the government has chosen to ignore them.

**Dr. Shah Nawaz Ahmed Malik (2019)** Since independence, minority rights have been a hotly contested topic in national politics. The term "Minority" is only used in reference to groups that are "based on religion or language," but is not defined elsewhere in the Constitution of India. There are 172.2 million Muslims in India, or 14.2 percent of the total population, as per the 2011 census. Muslims in India make up around 10% of the global Muslim population and are the biggest and one of the world's oldest Muslim communities. Over 90% of India's Muslims are of indigenous descent; their ancestors converted to Islam under the influence of Sufis and Scholars at various times. The Muslim community in India has made significant and far-reaching advancements in several fields, including the visual and performing arts, literature, and language.

**Abdulrahim P. Vijapur (2017)** Legal protections for minorities are now embedded in the constitutions of the vast majority of post-colonial states and in the international human rights legislation that guides international organizations. Constitutions across the globe have recognized religious, linguistic, and ethnic minorities as vulnerable groups that must be protected against discriminatory majority policies and attitudes. Constitutional law in India is often regarded as among the greatest in the world since it guarantees all citizens, especially those from religious and linguistic minorities, access to a comprehensive bill of rights. Moreover, every ethnic, racial, and cultural minority is guaranteed equal protection under the law. In this article, we examine the provisions of the Indian Constitution that protect the ability of minorities to establish and lead schools. Article 30 of the Indian Constitution allows for the creation of separate educational institutions for religious and ethnic

minorities; this article examines the arguments and content of this article from the Constituent Assembly. Further,

### 3. EDUCATIONAL RIGHTS OF MINORITIES UNDER THE INDIAN CONSTITUTION

It is admirable that the Indian Constitution includes protections for the country's many different kinds of religious and ethnic minorities. The significance of these clauses was not lost on the Constitution's authors. They fully grasped the need of protecting the rights of minorities and other marginalized groups in a democratic and inclusive society. The Nehru Committee Report and a decision of the Government of India in 1948 served as the first motivation for a guarantee of the minority language educational right. The state "must make suitable provision" for teaching minority children in public elementary schools "through the medium of their own language and in such script, as is fashionable among them," according to the relevant section of the Nehru Committee Report, as cited by Furtado (2017). "The notion that a child should be trained in the early stages of its education via the medium of its mother language has been approved by the Government," said a resolution passed by the Indian government. Constitutional protections for members of marginalized groups in India's society. For the sake of ensuring that all citizens are treated equally under the law, Article 15(1) of the Constitution "clearly bans the State from discriminating against citizens on the basis of religion, race, caste, or class."

Every child between the ages of 6 and 14 is entitled to a free and obligatory public education under Article 21A of the Constitution. As stated in Article 21A, all children between the ages of six and fourteen are entitled to a publicly funded, mandatory education in a way that the government may decide. Articles 29 and 30 of the Constitution provide the right to education and culture for members of religious and linguistic minorities, giving them a sense of safety and security. The protection of their language, culture, and script or the advancement of the common good via the dissemination of superior education are all within their purview, as guaranteed by these provisions. The rights of religious and ethnic minorities are safeguarded under Article 29 of the Indian Constitution. Educational institutions are authorized by Article 29(i) "to promote education in regional language to the extent that it has done for minor and language of the minor." To quote the clause at hand: I Any segment of the people resident in the territory of India or any part thereof possessing a separate language, script, or culture of its own shall have the right to retain such." Citizens of any part are guaranteed the right to "reserve their separate language, script, or culture" under Article 29, which is an unrestricted fundamental freedom. The Supreme Court ruled in *Jagdeo Singh Siddhant vs. Pratap Singh Daulat* that Article 29 guarantees the "freedom to advocate for the conservation of the language." Specifically, Article 30 of the Indian Constitution is crucial to the maintenance and defense of minority rights in the country. The Constitution guarantees the freedom of minorities to form and administer their own schools. It follows that each minority group, regardless of religion or language spoken, has the right to lead and manage its own educational establishment. Therefore, it is necessary to interpret "establish" and "administer" together. When deciding which schools to fund, the state must not favor those that were founded or are run by members of a disadvantaged group. The State must recognize such schools, nevertheless.

The Supreme Court ruled in *T. Varghese George vs. Kora K. George & others* that state educational authorities had the authority to supervise such schools since "the freedom to govern does not entail the right to mismanage". Article 45 of the Indian Constitution requires each state "to provide early childhood care and education for all children till the completion of the age of six years." This provision is included in Part IV, which provides explicit directions over the states to construct a fair and equitable social order. India has signed and ratified a number of international instruments in order to demonstrate its commitment to promoting "respect for international law and treaty duty" and "international peace and security" as stated in Article 51. As we have seen, many of these, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, etc., have substantial scope for the right to education of minorities. Part XVII of the Indian Constitution guarantees the rights of linguistic minorities. Which includes guidelines for the development and safeguarding of minority languages.

Article 350A of the Constitution mandates that native language instruction in the early grades be given priority for children from linguistic minorities. A more robust entitlement under Article 29 is guaranteed by this clause (I). Justice S. Mohan said that "when the sensitive minds of children are subjected to a foreign medium, the learning process becomes unnatural" in the case *English Medium Students Parents Association vs. the State of Karnataka*. Inflicting such a severe burden on the young renders the whole exchange mechanical. Native language is the best way to learn the fundamentals. It is generally accepted that the introduction of a foreign language poses a danger to the maturation of the native vernacular. The President may issue such direction to

any State as he deems necessary or proper to secure the provision of such facilities, as stated in Article 350A. "It shall be endeavor of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups." Article 350B details the procedures for selecting and vetting a 'Special Officer for Linguistic Minorities' and their mandated responsibilities.

With the help of Article 15(5) and the Right of Children to Free and Compulsory Education Act of 2009, according to the law in question, all minority and majority unaided elementary schools were required to provide free and mandatory education to at least 25% of their student bodies. In *Society for Unaided Private Schools of Rajasthan v. Union of India*, a three-judge panel of the Supreme Court was asked to rule on the constitutionality of this clause. The majority ruling, as announced by Kapadia, affirmed the quota for predominantly-white institutions. This clause was deemed unlawful because it discriminated against minority schools that received no government funding (Article 30). In *Primate Educational and Cultural Trust Union of India*, a five-judge bench of the Supreme Court heard arguments over the exemption of minority educational institutions. The Supreme Court examined Art. 15's constitutionality for the first time in this case (5). The Constitutional Amendment was affirmed by the Court, and Patnaik J. spoke on behalf of the Court. According to the ruling, minority-serving educational institutions qualify as a "distinct group" whose rights must be safeguarded in accordance with Article 30. Additionally, it was speculated that include people from lower socioeconomic groups in a school's student body may dilute the minority status of that institution.

Although the legislation has evolved to protect the unique status of minority educational institutions, this was missed by the Court in its decision in the Primate Case. By granting such an exemption, the minority educational institutions' social justice commitments for students from the most vulnerable and underprivileged segments of the minority population were jeopardized. In *Ashwini Thana pan v. Directorate of Education*, the disagreement between the Inamdar and Primate Cases was noted, and the subject was forwarded to the Chief Justice. *Sabha George Vs. State of Kerala*, was heard on June 10, 2016, and the Kerala High Court ruled that minority-serving schools are within the scope of Section 16 of the RTE Act. According to Article 16, no student may be excluded from school until they have completed the primary level. The High Court came at this surprising conclusion by looking to Article 21 of the Constitution, which protects the right to life and liberty, rather than the Act. The court found that a no-detention policy serves the children's "best interest" and may constitute a legal right in its own right.

#### **4. THE PRINCIPLE OF EQUALITY AS A BASIS FOR THE PROTECTION OF MINORITY INTERESTS**

When talking about or interacting with marginalized groups, the topic of equality is crucial. The elimination of prejudice and full parity with the majority is a primary demand of minorities in the vast majority of circumstances. The Indian diaspora can attest to this fact. Equality with the majority is the lowest acceptable condition and the first step toward the realization of their goals, even in circumstances of minority with militant beliefs. Given that the Indian Constitution has embraced this concept as the single has been for the settlement of the minority issue, it takes on added relevance in the context of the Indian minorities. The preceding paragraph said that the Indian Constitution's attempt to ensure the safety of its minorities via a guarantee of the Fundamental Rights and a framework of political rights was discussed. It must be stressed, however, that they are not quotas for minorities (which are not specified) but rather benefits that are open to everyone. The fact that the Indian Constitution does not divide the people of India into distinct factions is surprising given the country's history of strife. There is only one kind of citizenship, and no group of people will be treated differently or given special privileges.

The Constitution is an egalitarian instrument because it seeks to ensure that all people have the same rights and opportunities. Equality in the political sphere, in addition to the social and economic spheres, is considered. The Sapura Committee, which foresaw the establishment of the Fundamental Rights, articulated the Constitution's goals eloquently. It predicted that the Constitution's rights will be enshrined in a statement of Fundamental Rights by the Committee. Constitutional rights would be "not only a standing warning to the vested interests or to the privileged classes hut also a standing invitation to the governments, administrators, and guardians of the law that the period of privileges and inequality is over and that what the Constitution demands and expects is perfect equality between one section of the community and another in the matter of political and civic rights, equality of liberties, and security," the document said. The Fundamental Rights section contains the most important legislation relating to equality. According to Article 14, "the State must not refuse to any individual within the territory of India equality before the law or the equal protection of the laws." A person may not be treated differently because of his or her religion, race, caste, gender, or place of birth, according to Article 15 of

the Constitution. This prohibition applies to both public and private actions using public facilities. Article 16 ensures that everyone has an equal shot at a government job and prohibits bias in the hiring process.

The provisions for "protective discrimination", the abolition of "untouchability" in Article 17, and the abolition of "titles" in Article 18 together establish the framework for socioeconomic equality. All residents of the nation have the same citizenship, all adults may vote, and everyone has a chance to serve in some capacity in the government. 11 The fact that India has chosen to be a democracy is significant given the current political climate. It has double ramifications for the minority issue. First, there is no issue of minorities unless in a democracy, as Humayun Kabir has pointed out. In a democratic society, people and communities are guaranteed protection against coercive forms of government that seek to standardize or homogenize them. The topic of minorities becomes significant only in a democracy, in which individual rule or group rule of a class is replaced by rule by the will of the majority, and in which all members of the community share equally in the community's obligations, responsibilities, and rights. Second, the principle of equality is fundamental to this kind of political structure. Democracy presupposes equal rights for all citizens. certainly, there is much debate regarding how much equality is necessary in a democracy.

Some say that all that's needed is for everyone to be treated equally, regardless of their socioeconomic background, while others insist that equality is never genuine until it encompasses all aspects of life. By mandating equality in a more general sense, the Indian Constitution has ended this debate once and for all. Positive equality, with what R. H. Tawney calls "equal chances of being equal" via the active assistance of the state, is what it wants, as opposed to purely negative equality, in the sense of a lack of discrimination or an equality of status. In other words, equality of opportunity is not only an issue of legal equality\*; it does not exist because of the absence of infirmities but because of the presence of skills. Minorities may be certain that their rights would be safeguarded according to the regime of equality envisioned by the Indian Constitution, which was established as part of the document's democratic framework.

A mere declaration of equality, however, should not be seen as a panacea for minority group issues. However, there are significant challenges to putting it into practice, the most significant of which is the challenge of determining the genuine definition of "equality," despite the fact that it may serve as a basic foundation in ensuring minority rights. Variables in its interpretation are inherent, hence there is no definitive TO guide. Historians who have examined the idea of equality attest that it loses its power and use when constrained to a single definition. The most that can be said about equality is that it is a coherent set of beliefs or a viewpoint on life after that is held by all males. Numerous considerations are needed before it may be used effectively. Thus, it has been recognized that declaring all people jail in the eyes of the law is not sufficient to level up or down a very heterogeneous society like India. In addition to the overarching Article 14 provision, a number of technical articles describing the criteria of equality and enabling a degree of discrimination in some cases were necessary to hasten the process of actual equalization.

Harmonizing the principle of equality with the bargains of justice and liberty is essential for its success. Equality is not an aim in itself, but rather a method to ensure each individual's flourishing. Justice serves as a guiding principle for its operations. For there to be true equality, it is essential that the community's finite resources be distributed fairly among all of its members, based on need and merit. With clarity and force, Harold Laski expresses this concept of parity. To him, equality meant a society in which no man is so powerful that he can deny his neighbor the rights and privileges of citizenship. This refers to a social system in which everyone contributes to maintaining society but also benefits from it. This implies that my proportion of the benefit must be sufficient for citizenship reasons. It means that my opinion should be taken into account even if it is less important than someone else's. Because of inherent disparities in human nature, societies must devise means for individuals to freely express their desires, and this is where equality finds its ultimate meaning. When people are treated equally, they all have access to the same resources.

Authority to manage and accept pupils The establishment of a minority-run educational institution is of the utmost importance, and with that comes the equally important and necessary right to govern the school. The Supreme Court agreed with Vithalbhai that this right is absolute and cannot be limited in any way. The Supreme Court also held in *in re Kerala Education Bill 24* that limits might be put on the right to administer for the sake of efficiency and the standards of quality required of educational institutions. Under the pretense of managerial exclusivity, they cannot choose to deviate from the standard curriculum. Dwivedi J. in *St. Xavier's College* echoed this sentiment, writing, "Constitution framers did not intend to grant unlimited rights on a religious or linguistic minority to create and run educational institutions." The freedom guaranteed by Article 30 (1) is limited in part by the ancillary provision of Article 29 (2) ". The study of the connection between Article 30 (1) and other Constitutional articles, most notably Article 29, will be returned to later (2). To "administer" anything

is to "run" or "manage" that thing. Khanna J. presented his idea from an unconventional angle. While minorities have a right to lead in educational institutions, this does not exclude appropriate limitations.

For the school to fulfil its mission as a minority serving educational institution, it is essential that certain rules be enacted. They need to be constructed in a way that makes them a potent tool for teaching. One cannot legitimately claim the freedom to "mal-administer" educational institutions. To avoid the spread of disease and prevent the hiring of unqualified staff, regulations may be put in place to ensure that schools are not housed in unsanitary conditions and that only properly trained educators are allowed to teach in them. In order to guarantee the school's high quality, the state might mandate certain rules. Setting requirements for schools does not interfere with a minority's ability to run such schools. Institutional efficiency, discipline, health, cleanliness, morality, public order, and similar goals may all be legitimate justifications for enforcing certain sets of rules. To ensure the smooth operation of the institution in educational concerns, such rules are necessary, but they do not infringe on the core of the given right. "If the right to administer is recognized and upheld, no other group or individual may interfere with or change who is responsible for running the institution's day-to-day operations. However, reasonable rules are allowed, provided that they are regulatory in purpose and do not infringe on the right protected in Art. 30. (1). It is obvious from the Supreme Court's many rulings, and especially *St. Xavier's*, that the Court holds the opinion that the right under Cl. (1) of Art. 30 provided to minority educational institutions is not absolute, but may be subject to certain or other limits. It is argued that the nine-judge panel's judgement in *St. Xavier* should take precedence over the single-judge panel's decision in *Sidharajbhai*.

It is not contested that the Article 30 (1) right may be controlled, but the scope and character of such limits must be made plain. Some examples of why the right to run a school as a minority might be limited include a lack of excellence, efficiency, or quality in teaching; poor sanitation, health, or morals; or a lack of appropriate leadership. Given the scope of Article III, no basic freedom may be considered absolute. Every privilege is qualified in some way or another. That is to say, 'every privilege comes with an obligation.' The right granted in Article 30(1) is a communal right and not an individual one. It should be used for everyone's good. No one has the right to seek and fulfil his personal interest if doing so would jeopardize the interests of the group or community at large. The Supreme Court affirmed the ordinances of the Agra University in *Gandhi Faiza-e-am College v. University of Agra*, which stated that a private college would not be recognized unless the principal and the senior most instructor served on its governing council.

The court found that the law was conducive, promotional, and geared to enhance the one and temper of the administration of the school. Krishna Ayer J. denied the existence of a universal right to choose the members of the governing body and said, "For certain restrictions may intrude slightly into the composition of the administrative organ albeit plainly aimed to rescue the institution from mismanagement." Before this ruling, however, the Supreme Court had interpreted the constitutions of governing bodies as an interference in the rights of minorities to exercise management or administration. It was similarly decided that Article 30(1) does not mandate that a majority of minority community members be included in the composition of the Board of Minority's Educational Institution. <sup>32</sup> The admittance of students is one of the most divisive issues surrounding minority control of educational institutions. As was previously said, it is generally accepted that the power to administer is not absolute but may be subject to re-gelation under specific circumstances.

During the case of *St. Stephen College v. University of Delhi* "The Supreme Court's five-judge bench deliberated on the issue of minority-student enrollment in government schools (ME). A challenge to the petitioner college's admissions policy was filed with the Delhi High Court. The High Court ruled that the university must accept applications from all qualified students and conceal the admissions decision. In response to the ruling, the university filed a writ case with the Supreme Court under Article 32. The Supreme Court was asked to rule on whether or not a minority-serving school may establish admission requirements that differed from those of the University with which it is associated. *St. Stephen's College*, which is associated with the University, set its admissions criteria as follows: scores achieved in a qualifying exam + marks gained in an interview, as required by the University's guidelines.

It was decided by a large margin that the college's required exam was valid. The use of past academic achievement as the only criterion for admission cannot be justified as the most objective predictor of future success. On the other hand, in his dissenting opinion, Kasaija J. found that the college's use of the interview technique in defiance of the university's instructions was completely arbitrary, improper, unconstitutional, and a violation of Art. 14. There was no rationale for the institution being administered by a minority group. Later, in *T.M.A. Pai Foundation v. State of Karnataka* <sup>35</sup>, the Supreme Court cast serious doubt on the majority view of *St. Stephens college*, saying that as long as a minority educational institution is permitted to draw students belonging to that minority to the extent of 50% seats even by going down the merit list, there should be no

problem "There is no reason for the State/affiliating University not to require that admissions be based on inter se merit, as determined by a common entrance exam, for both general students and students from minority communities. We do not believe that Article 30 gives a minority school the right to use its own admissions criteria. It was also noted that, because of the dispute with St. Stephan, the case should be brought before a higher Bench. Schools serving religious minorities are prohibited from using religious affiliation as a single factor in admissions decisions. Such favoritism toward applicants from minority student groups is clearly religious prejudice. It functions to pick out applicants from the majority group based solely on religious grounds.

According to Article 29 (2), no such bias is allowed. In light of this, the Supreme Court made the following observation: "Art. 29 is particularly concerned with ensuring citizens' access to publicly supported educational institutions" (2). That no one should be treated differently because of their faith, ethnicity, caste, language, or any other factor is a fundamental tenet of this document. In a secular society, this is a fundamental value. Institutions of higher learning run by the state or receiving financial support from the state are strictly forbidden from discriminating against citizens on the basis of their religion, race, caste, or language. Minorities are not excluded from its scope. In its deliberations, the Supreme Court gave serious thought to admissions and fees. With the goal of doing away with the evil of capitation fees and the total discretion of management about the same, the Karnataka government created a plan controlling admission to professional institutions, as per Unnikrishnan's verdict. As an infringement on their freedom to administrate as granted by Art. 30, minority educational institutions contested the system when it was imposed to them by the state government (1). At the same time that it upheld B.P. Jeevan Reddy's previous interim judgement, the Court referred the case to the Chief Justice of India so that a bigger Bench of seven judges could decide the case. In which he said that 50% of the entire admission would be filled by individuals picked by state or government agencies based on a competitive exam/test, and that the other 50% of the intake may be managed by the MEI to accept candidates from the specific religious or linguistic minority. Candidates from underrepresented groups who are chosen must, nevertheless, pay all tuition and fees required by the state. It is argued that in order for the right guaranteed by Article 30 (1) to have any practical significance, a more realistic and pragmatic approach is required. Concurrently, peace and equilibrium are needed between two competing and compelling rights recognized in Articles 30 (1) and 29 (2) of the Constitution.

## 5. CONCLUSION

The history of conflict and the current climate of fertile ground for communal violence and disagreement make India's minorities particularly vulnerable on a number of fronts. The goal of minority rights is to improve their lives and elevate them to the same status as the majority. This minority issue has been around for quite some time. As part of their "Divide and Rule Policy," the British imposed it. Equality is not an aim in itself, but rather a method to ensure each individual's flourishing. Justice serves as a guiding principle for its operations. For there to be true equality, it is essential that the community's finite resources be distributed fairly among all of its members, based on need and merit. The court found that a no-detention policy serves the children's "best interest" and may constitute a legal right in its own right. As we've seen, the CEDAW, the Convention on the Elimination of All Forms of Discrimination against Women, and other similar documents have broad implications for minorities' access to higher education.

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