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THE ROLE OF CONSTITUTIONAL COURTS IN MINORITY RIGHTS PROTECTION IN INDIA

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HISTORY OF PROTECTION OF MINORITY RIGHTS IN INDIA

Some people think that the idea of India as a nation-state was influenced by European nationalism, and they don't like the idea of a varied population associated with it. 10. In their pursuit of homogeneity, European governments first aimed to build strong, united national communities. As a result, any indication of discord greatly troubled them. According to postcolonial critics, India's goals have always been put on the back burner in favour of a homogenous population, which has meant that minority identities and ambitions have had very little chance of being realised. The fractured and sectarian character of Indian politics prevented the realisation of the "participatory parity" that had been promised to all segments of the Indian population. Achieving fair distribution of resources and respecting culturally varied social groupings were both hindered by the national identity's support of the Hindu majoritarian identity[2]. Due to their exclusion from nationalism and confinement to the nation-state, these communities faced a difficult dilemma. As a result, several micro-identities thrived. This led to the categorisation of several Indian populations as "minorities, marginalised, and explicitly excluded/subaltern," even though they were actually citizens of India. Amit Gopal

Thus, in two ways, the emancipation struggle was helped forward by the growth of this kind of regional and local consciousness. In spite of this, it appears to have stifled the desire of people in many parts of the world to fight against British rule by developing a strong sense of Indian motherhood and thus creating their own cultural identities. The apparent disagreement between the communities, who championed the slogan "India-a United Nation," and the British authorities, who emphasised the variety of castes, communities, tribes, and language

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groups, originated from the fact that India sought national unity in opposition to British rule, even as it was bringing different cultural and linguistic groups together into separate ethnic and communal identities.

THE CONSTITUTIONAL CONSENSUS FOR THE RESOLUTION OF THE MINORITY QUESTION:

Under Sardar Patel's leadership, the Constituent Assembly formed an Advisory Committee on Fundamental Rights to address the needs of India's minority groups, including their rights to equal treatment and safeguards. A total of seventeen H.C. Mukherjee presided over a minority-only subcommittee that was one of five formed by the Advisory Committee to address basic rights. ,

Many steps to protect India's minority groups were suggested by the group. Because of the history of rising ethnic tensions, the plan to create separate electorates for minorities was rejected. So, it was decided that all elections for the provincial and federal legislatures would be held by collective electorates, with seats given to certain minority groups based on their population proportions. Before reaching a final decision on reservations, it was suggested that they be tested out experimentally for up to ten years. 18 Muslims, Sikhs, Christians, Anglo-Indians, Parsis, and tribal inhabitants from the Assamese plains should be given parliamentary seats according to their demographic proportions, according to the advisory committee's final resolution.

The Advisory Committee's suggestions were included in the draft constitution by October 1947. It was thought that, given the current state of affairs, it would be difficult to divide the nation's seats among minority groups according to their beliefs. 19. Consequently, during a subsequent meeting of the Constituent Assembly, the Advisory Committee presented a plethora of new ideas pertaining to minorities. [3]It is absolutely unacceptable for any part of the country to pass a law that prevents minorities from practicing their religion, learning about their history, or using their language.

Regardless of their religious, linguistic, or geographical ties, all minority groups inside the nation have the ability to create and administer educational institutions. Institutions of higher learning run by members of under-represented communities shall not face biassed funding from the state.

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[3] Hasan, Zoya, '2 Reservation, Minority Rights, and the Making of the Constitution', *Politics of Inclusion: Castes, Minorities, and Affirmative action* (Delhi, 2011; online edn, Oxford Academic, 20 Sept. 2012), https://doi.org/10.1093/acprof:oso/9780198076964.003.0002, accessed 30 Mar. 2025.

Constitutional Framework protecting the minority

These ideas were updated by the Constituent Assembly and were incorporated into the final Indian Constitution in Articles 29 and 30. Many people divide minority rights guaranteed by the Constitution into two groups: "common domain" and "separate domain." Everyone in our country has an inherent right to what is known as the "public domain." A minority group's "separate domain" privileges exist to protect that group's unique identity. Indian constitutional law grants religious minorities the following rights:

(i) the freedom to speak their native language and practise their traditional religion;

(ii) the power to manage and direct organisations that provide them with services; and

(iii) the opportunity to receive religious education in an environment that is safe and welcoming to them.

The common domain of constitutional rights is addressed in Part III of the Indian Constitution, Fundamental Rights, and Part IV, Directive Principles of State Policy (DPSP). The DPSP is a set of inalienable rights that people have in relation to their economic and social benefits. Even though these rights cannot be enforced in court, the Indian Constitution states in Article 37 that they are "fundamental in the governance of the country, and it shall be the duty of the State to apply these principles in legislating.". What follows in the DPSP is highly consequential for our nation's minority groups: i) Article 46 states that the state must "promote with special care" the economic and educational interests of "the weaker sections of the people," excluding Scheduled Tribes and Scheduled Castes;" and ii) Article 47 states that the state must "to endeavour to eliminate inequalities in status, facilities, and opportunities" among everyone.

The Fundamental Duties outlined in Part IV A of the Constitution are the right of every citizen of India, including minority groups. Some minority groups have special protections under Article 51A. [4]

It is the responsibility of the local population to promote unity and calm among all Indians, "irrespective of religious, linguistic, and regional or sectional distinctions."

The duty of protecting and preserving our varied society's rich history rests squarely on the shoulders of individuals.

A person's fundamental rights in India are divided into two groups, according to the Indian Constitution's Part III: the "separate domain" and the "common domain." Important rights

[4] Reddy, O. Chinnappa, 'Minorities and Minority Institutions', *The Court and the Constitution of India: Summit and Shallows* (Delhi, 2010; online edn, Oxford Academic, 18 Oct. 2012), https://doi.org/10.1093/acprof:oso/9780198066286.003.0025, accessed 30 Mar. 2025.

and freedoms enjoyed by India's minority groups in the "common domain" include: Article 14 guarantees that all citizens have "equal protection of the laws" and "equality before the law," while Articles 15(1) and (2) prohibit discrimination on the basis of gender, race, religion, or place of birth. The State has the authority to create "any special provision for the advancement of any socially and educationally backward classes of citizens" [Article 15(4)] in addition to the Scheduled Castes and Scheduled Tribes. iv) The power of the state to create "any provision for the reservation of appointments or positions in favour of any backward class of citizens that, in the State's assessment, is insufficiently represented in the State's services"; v) Each citizen has the right to "equality of opportunity" when it comes to employment or appointments to state offices, and it is illegal to discriminate on the basis of religion, race, gender, caste, or place of birth. It is forbidden to punish someone for promoting a certain religion in Article IX, Article 27. According to Article 28, "freedom regarding participation in religious instruction or worship within educational institutions" must be explicitly recognised, supported, or made possible by the state.

The rights of minorities are protected by the Constitution under what is called the "separate domain," and this includes things like:

"Any section of citizens" are guaranteed the right to "preserve" their "unique language, script, or culture" in Article 29(1). No one can be denied admission to a state-funded or supported school "solely on the basis of religion, race, caste, language, or any combination thereof" in Article 30(1). All religious and linguistic minorities are also granted the liberty to establish and operate their preferred schools in Article 30(2). In Article 25, the right to "wear and carry kirpans" is guaranteed to the Sikh community. In Article 350 A, the mother tongue is provided for in primary education. In Article 350 B, a Special Officer for Linguistic Minorities is designated and assigned duties. In Article 347, there are specific regulations regarding the language spoken by a minority group in a state. [5]

Constitution and the Minority Educational Institutions

India is a diverse and pluralistic society that has always sought to safeguard its communities by striking a delicate balance between majority and minority rights. It is possible to critically interpret the constitutional framework in light of changing socioeconomic circumstances since its definition of "minority" is insufficient. Among the most pressing considerations during the Constitution's draughting process were methods for categorising minority concerns

[5] Singh, Sushil Kumar. (2024). CONSTITUTIONAL PROTECTION OF MINORITY RIGHTS IN INDIA: LEGAL AND SOCIAL PERSPECTIVES. cl. 1-7.

and finding common ground with majority interests. The need of finding a solution and including rights that benefited minorities while being recognised by the majority was stressed by Sardar Vallabhbhai Patel in his diplomatic speech.[6]In his address on August 27, 1947, presenting the Report on Minority Rights, Sardar Vallabhbhai Jhaverbhai Patel highlighted the roots of this issue, which remained in this setting. As Patel points out, minorities are nested inside other minorities, which creates a number of obstacles to their union. Given this, the potential is frightening. I have faith that this House can handle itself with the same degree of decorum and respect that we did when we set out to resolve this difficult matter amicably and without the ill will or disagreement that could have led to conflict. The difficulties of resolving competing interests within a multicultural context are highlighted by Patel's admission. Smaller cultural, linguistic, and religious groups coexist with larger minority groups in India, illustrating the multi-faceted nature of cultural diversity.. According to historian Khushal Talaksi Shah, typically, minorities who are citizens do not assert any special rights within the State in which they reside.[7]The democratic system is designed to prevent minority from ever becoming the majority and seizing power. In order to maintain unity and progress the nation, Pandit Govind Ballabh Pant emphasised the significance of fully accepting minorities. Twenty These results show that safeguarding minority rights is crucial for building trust in a democratic system based on the constitution, and not just a reasonable compromise. By allowing minorities to keep their own identities, the founders helped create a society that is more equitable and peaceful. The term "minority" goes beyond its legal meaning to include the requirement of political rights, such as participation in legislatures and public services, according to Dr. B. R. Ambedkar, who made this claim during the Constituent Assembly discussion over the alteration of draft article 23,. Rather, it sought to include cultural and linguistic minorities; it did not care if they were considered minority in traditional political contexts. Recognising India's varied history and the significance of inclusion, the framers of the constitution established particular safeguards for the educational, cultural, and religious rights of majority and minority groups in Articles 25–30. [8]To be more precise, paragraphs 29 and 30 deal with minority rights as they pertain to "cultural and educational rights." Article 29 aims to conserve minority cultural interests, whereas Article 30 protects minority rights to build and run educational institutions. By allowing members of minority groups to create and oversee educational institutions, this

[6] Constitutional Assembly Debates, Vol. V, pp. 212-215.
[7] B. Shiva Rao, THE FRAMING OF INDIA'S CONSTITUTION Vol. II, 423 (Reprint: 2005).
[8] Priti Saxena, *Judiciary on Educational Rights of Minorities,* XXXII IBR 425, 426 (2005),

provision safeguards minority languages and cultural identities. The ideas put out by the Constituent Assembly are bestowed genuine constitutional rights by it. Examining the text of Article 30 is vital for comprehending the educational rights of minorities. Unlike the language used in Article 29, which applies to all categories of Indian people, a quick review of Article 30(1) reveals that it is only relevant to linguistic or religious minorities. Here, the word "or" emphasises that a minority group doesn't always have to be religious and linguistically distinct.[9]. This was clarified in the ***DAV College v. State of Punjab*** [10]decision by the Supreme Court. The question that needed answering was whether the Aryasamajis and Hindus of Punjab met the requirements of Article 30(1) to be acknowledged as a minority. Justice Jaganmohan Reddy argued on behalf of the bench that Hindus in Punjab are entitled to the protections of Article 30(1), even though the state has challenged their minority status as a language group. This is because the state's population is used to determine minority status, a point that will be discussed more below. According to Article 30(1), a linguistic minority is defined as a group whose members exclusively use their native language for communication. Additionally, the language does not need a particular script. Article 30(1) recognises linguistic minorities, including speakers of many Indian languages, even though no one script is universally used (1). Incorporating linguistic minorities inside the constitutional framework is necessary on the assumption that reorganising states based on language will change the political scene in India. Since determining minority status at the state population level is so important, this essay argues that there should be no wiggle space when deciding which two groups should be considered minorities. Two provisions of the Constitution's Seventh Amendment (Amendment 32) aim to safeguard languages that are considered minority. The rights of language minorities are strengthened in two ways by the endorsement of paragraphs 350A and 350B. First, make sure people get basic language lessons in their native tongue; second, designate a Special Officer to look into and fix their problems. The constitutional framework includes these provisions that help ensure equal opportunity, cultural preservation, and the empowerment of language minorities. In addition to the guarantees provided by Article 30, the Indian Constitution has, on occasion, granted special protections to religious minorities. When it comes to this article, the Supreme Court ruled that religious minorities must be evaluated at the state or union level. Legislation passed at the state or federal level in Punjab designated Hindus and Aryasamajis as a religious minority. Since the disputed legislation was approved by the reorganised Punjab state, the

[9] M.P. Jain, INDIAN CONSTITUTIONAL LAW 1343 (2010)
[10] (1971) 2 SCC 269.

Court used Article 30(1) to establish that Hindus in Punjab were a minority. Therefore, it was generally agreed upon that the relevant legislation should be considered while evaluating the minority character. Nevertheless, according to the majority opinion given by the eleven-judge bench of the Supreme Court in the ***TMA Pai Foundation v. State of Karnataka***[11]case, it is necessary to assess the community's minority status based on the state's population. The majority ruling of the court states that the word "minority" needs to be defined consistently regardless of who is implementing the law. It follows that a religious minority group has the right to run its own institution as long as it follows its own principles and does what's best for the community and the organisation. Article 30(1) guarantees this right to religious minorities. It is possible for one kind-hearted minority group member to freely establish such an association and yet be eligible for protection under Article 30 (1). 42 The phrase "establish and administer" suggests that the minority group is also required to create a school to oversee its operations. "The community must demonstrate that the institution was established by them to assert the right to administer the community." The Supreme Court said in the case of ***St. Stephen's College v. University of Delhi.*** [12]"Establish and administer" is a conjunction statement that uses the word "and" to join two ideas. In their unanimous decision in T.M.A. Pai, the Supreme Court outlined the specific rights guaranteed by Article 30(1) of the Constitution to establish and operate an institution. These rights include the following: (a) admission of students; (b) creation of a reasonable fee structure; (c) formation of a governing body; (d) selection of faculty and staff; and (e) disciplinary actions against faculty and staff. 46 The fundamental principles of the Constitution are consistent with the reasoning behind this clause. Democratic justice requires minorities to be fully integrated into society, since this promotes inclusive ideals and gives them a sense of purpose in contributing to the nation's progress through education. To qualify under the requirements of Article 30, a community must prove two things, according to the Supreme Court's decision in ***S.P. Mittal v. Union of India***[13]: (a) that it is a religious or linguistic minority, and (b) that it formed the institution (1). If these two conditions are not satisfied, it cannot claim the supposed right to operate. Allahabad High Court held in ***Yogendra Nath Singh v. State of Uttar Pradesh*** [14]that "the twin character must be established" and that "minority status for the purposes of Article 30(1) cannot be conferred in the absence of even one." However, taking society norms and dynamics at face value can cause problems down the road, thus we advise against taking this

[11] 2002 INSC 454
[12] AIR 1992 SC 1630
[13] AIR 1983 SC 1
[14] AIR 1999 All HC 356

word at face value. There is no automatic qualification of an institution as a minority institution merely because it was founded by a person of a specific faith, according to the Kerala High Court held in the case of ***Rajershi Memorial Basic Training School v. State of Kerala***[15], and the Patna High Court held in the case of ***Pratinidhi Sabha v. State of Bihar***[16]. Roughly.However, the minority institution's formation with foreign finance has been extensively investigated by the Supreme Court through the use of the Act. The court emphasised that the fact that a minority group in India may have sought foreign funding to build or improve a school, or that foreigners may occasionally be involved in its administration, does not diminish the institution's eligibility for the protections provided by article 30(1). Having fifty Emphasising and purposefully interpreting the community's minority aim in line with constitutional regulations can help build peace and sustain brotherly values.

Any organisation that provides professional training and education from kindergarten all the way up to graduate school is considered a "educational institution" for the purposes of this article 30(2). Article 30 (1)'s use of the term "of their own choice" gives minorities greater say over schools. Because of their clout in these organisations' inner workings, their mere existence is reassuring. It also shows that minority communities may control how many majors minority universities offer held in the case of ***Re: The Kerala Education Bill***[17]. People from minority groups are not required to teach others about their religion or native language, if any, because this is also an unfettered right. Remember that minorities needed access to secular education, and that's why this condition was put in place. According to the Supreme Court held in the case of ***Ahmedabad St. Xaviers College v. State of Gujarat,*** [18]this right was created to make sure that all kids have a good education so they may grow up to be contributing members of society. Because it will make it easier for minority students to interact with the majority while they are in school, comprehensive secular education will be beneficial to minorities. The guiding ideals of liberty, equality, and fraternity are embraced by this declaration. Articles 19(1)(f) and 31 were repealed and replaced with Article 30 by the 44th Amendment Act of 1978 (1-A). To prevent the minority group from losing its rights under Article 30, this article states that if a minority group's educational institution is forcibly acquired, the compensation must be sufficient (1).In addition to ensuring sufficient pay, the newly added item requires the State to compensate any additional expenditures paid by

[15] AIR 1973 Ker HC 87
[16] AIR 1973 Pat HC 101
[17](1959) SCR 995
[18] AIR 1974 SC 1389

management. The current rules for purchasing property do not adequately handle these specific goals, so the Supreme Court has rightly suggested new laws to handle these situations, which include any short-term fixes needed until a suitable replacement property is found, as well as the related expensesas held in the case of ***St. Joseph's College v. Union of India***[19].Achieving a balance between minority autonomy, or the freedom to run one's business without undue interference from the government, and the public interest is the main goal of this article. The public interest includes the power of the state to acquire land for public use. Recognising that minorities need specific safeguards to preserve their autonomy in a democracy controlled by the majority, this paragraph acknowledges the concept of substantive equality. It advances the fundamental goal of justice, which is to ensure minority' equality and fair treatment. Hence, this article protects minorities' faith and trust by ensuring a constitutional guarantee of compensation to allow the uninterrupted exercise of their rights under Article 30(1). Additional safeguards are given by Article 30(2) of the Indian Constitution in addition to those in Clause 1. It states categorically that minority-serving schools cannot get preferential funding from the state. Government funding is available to minority-affiliated schools that meet the same standards as mainstream schools, according to a Supreme Court decision in ***State of Kerala v. Mother Provincial***[20]. the number of In enshrining the constitution's commitment to nondiscrimination and equality, this provision protects the autonomy of minority institutions. This provision ensures that groups associated with minorities will not be discriminated against in terms of access to public resources only because of their ethnicity. By making sure that schools are treated the same by the government regardless of who runs them, it exemplifies the idea of state neutrality. The Supreme Court ruled that minority institutions must comply with appropriate regulations regarding assistance, even though such assistance cannot contain any discriminatory features. Just fifty-nine Adhering to jurisprudential fairness and including the broader constitutional norm of nondiscrimination, as protected by Articles 14 and 15, this paragraph discusses equality of opportunity. Preliminary goals of social and economic justice within a democratic framework, as well as constitutional philosophical ideals like as brotherhood and pluralism, are endorsed by this declaration. Although the provision protects against discrimination, it does not clearly state an unconditional entitlement to public aid, which might lead to disagreements. Although Article 30(2) forbids discrimination against minority institutions in the provision of assistance, the Supreme Court ruled in ***P.A. Inamdar v. State of***

[19] AIR 2002 SC 195
[20] AIR 1970 SC 2079

Maharashtra [21]that no person is entitled to such help, even though it does ban such discrimination. The general standards must be followed by all supported institutions. Also, rules can sometimes end up helping certain organisations while hurting others, which can lead to accusations of bias. As a result, the clauses must be carefully reviewed in order to strike a compromise between minority rights and the constitution's essential goals. In order to fully grasp Article 30 of the Indian Constitution, one must first analyse how it relates to other provisions and ideas found throughout the document, particularly in the Preamble, Part III, Part IV, and Part IVA. Symbiotic linkages are a metaphor for a balanced constitutional framework that seeks to protect the rights of minorities while upholding fundamental values like brotherhood, equality, and fraternity. Currently, we can assess the role of the right in maintaining India's pluralistic democracy. This viewpoint sheds light on the complex relationship between the many parts of the ever-changing constitutional framework from a jurisprudential standpoint.

Relation between Article 30 and various other fundamental rights

Equal protection under the law is guaranteed under Articles 30 and 14.

While Article 1461 guarantees equality under the law and equal protection under the law, Article 30 provides much more substantive equality, including safeguards for marginalised groups. Because it allows the state to take proactive steps to protect and promote the interests of the disadvantaged group, this guarantee is in line with the "equal protection of laws" clause. Hence, rather than creating an exception to Article 14, Article 30 applies the principle of equality with respect to minority rights (1). [22]In addition, Article 30 aligns with the goal of fair classification stated in Article 14. Concerning the Kerala Education Bill, the Supreme Court ruled that Article 30 establishes minority rights as a valid category that guarantees cultural and educational autonomy. Protecting minority groups does not amount to special treatment in a democracy run by the majority; rather, it is necessary for maintaining diversity and achieving justice under the rule of law.

Article 30 and Article 15: Prohibition of Discrimination

[21] 2005 (6) SCC 537
[22] H.M. Seervai, CONSTITUTIONAL LAW OF INDIA, Vol. II, 1337 (1993).

While Article 15 outlaws discrimination, Article 30 gives minorities the green light to establish nonprofits that promote civic engagement. A more nuanced and culturally sensitive kind of positive discrimination, here is an example of that. Article 30 further ensures that minorities are able to maintain their unique traits notwithstanding the limits mentioned in Article 15. By making it illegal to favour minority-led organisations when distributing public funds, Article 30(2) protects Article 15. Helping minority institutions while yet tolerating bigotry is a challenge, the court said. Limitations on minority-affiliated organisations are codified in Article15(5) of the Ninety-third Amendment Act of 2005. In doing so, it guarantees that minority educational institutions retain the independence guaranteed to them by Article 30 in the event that reservation processes are put into place. The validity of Article 15 was upheld by the Supreme Court in the case of ***Ashoka Kumar Thakur v. Union of India.***[23] According to Article 30, the court stressed that minority institutions must be excluded in order to protect their autonomy. As a result of this omission, Article 15(5) now includes the harmonious building requirement, protecting the common ambitions of society, while Article 30 upholds the autonomy of minorities. Institutions serving under-represented groups have the right, according to the court's decision in P.A. Inamdar v. State of Maharashtra, to set their own admissions policies without interference from the government. Some people think that minority institutions should not be exempt from Article 15(5) because it might make it harder for people from low-income backgrounds to get an equal education. Additionally, it can be unfair to put the whole burden of upholding the protected discriminatory principles on that non-minority organisation. To preserve the distinct independence and mission of the institutions, we think this exclusion is necessary.

Article 30 and Article 19: Right to Freedom

Article 30. outlines the authority to establish educational institutions, which directly enhances Article 19(1)(g). Schools are now communities' primary means of articulating their artistic and occupational goals. Unlike article 19(1)(g), the court ruled in the T.M.A. Pai case that article 30(1) is welfare law and forbids organisations created under it from making excessive profits for their shareholders. Seventy In upholding minority schools' autonomy in areas like as admissions, tuition policies, and administration, the Supreme Court upheld their

[23] (2008) 6 SCC 1 138

conformity with Article 19 rights. [24] Freedom of association, as guaranteed in Article 19(1)(c), is integral to a minority group's ability to form and control its own institutions through collective action. We must now acknowledge that the right under article 19(1)(a) includes not only verbal communication but also collective cultural, linguistic, and religious expression in order to reconcile article 30 with that provision. As stated by the Supreme Court of India, "expression" is widely defined in Article 19(1)(a) of the Indian Constitution to include cultural and creative genres. According to Article 30, minority groups serve as conduits for cultural expression through the transmission of religious practices, language, and culture held in the case of ***Bobby Art International v. Om Pal Singh Hoon***[25]. Minority schools have the right to have their own pedagogical approaches, curricular offerings, and language use. The students' right to free speech was upheld in the Supreme Court case ***Bijoe Emmanuel v. State of Kerala***[26], which established the limits of the right to remain silent and rejected the students' request that they sing the national anthem. Article 30's minority autonomy might be seen as a way for minorities to express themselves collectively; hence, Article 19(1)(a) allows for the ability to establish and oversee such organisations.

4.4.4 Article 30 and Articles 21, 21A: Right to Life and Right to Education

The right to education and the right to live in dignity are all part of the right to life, which is protected by Article 21also held in the case of ***Mohini Jain v. State of Karnataka*** [27]."Education enhances our devotion and elucidates our convictions and faith." By offering secular education that is relevant to these minority groups, seventy-six institutions created under Article 30 protect this right while also improving people's dignity and quality of life. The implied due process clause of Article 21 guarantees that government actions affecting people's lives and personal liberty be fair, reasonable, and just. Because of this, due process protects minority institutions' independence from the arbitrary government that would otherwise intrude on their administrative powers. Substantive due process in India is consistent with this approach. 78 Cultural and educational rights are protected by substantive fairness, and any limitations on these rights are ensured to be in accordance with constitutional standards by procedural fairness. No government program or policy may violate the constitutional rights of any group, according to the Supreme Court. While making

[24] K Vivek Reddy, *Minority Educational Institutions* in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION (Sujit Choudhry, *et.al.*, eds. 2016).
[25] AIR 1996 SC 1846
[26] 1987 AIR 748

[27] (1992) 3 SCC 666

sure that students' education reflects their variety, minority institutions work to ensure that students' right to education is realised, as stated in Article 21A. A portion of the Right to Education Act does not apply to minority institutions, according to the Indian Supreme Court's decision in ***Pramati Educational Trust v. Union of India***[28]. As the Court pointed out, minority institutions in India enjoy the autonomy guaranteed by Article 30 of the constitution, and Article 21A, which protects the right to education, does not infringe upon that autonomy.

Article 30 and Article 26: Freedom to Manage Religious Affairs

Every religious organisation has the right, as stated in Article 26, to practise its religion independently, including the establishment of associations for the furtherance of religious or humanitarian causes. Article 30 gives religious minority the right to establish and run schools in line with their own religious principles and practices. Articles 26(a) and 30(1) of the Indian Constitution provide heritage rights, which cannot be infringed upon because of things that happened before laws were passed that let people question or contest such things. Eighty-three people

The Supreme Court clarified in S.P. Mittal v. Union of India that Article 26, which grants jurisdiction to control religious affairs, is separate from Article 30, which grants power to create and administer educational institutions. the number of Both Article 26 and Article 30 deal with "religious denomination," although the latter specifically mentions religious minorities. Religious denominations are defined by the Supreme Court in a landmark judgement as groups of people that share a similar name, set of beliefs, and organisational structure held in the case of ***Commissioner Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt***[29]. The difference between a religious group and a religious minority—which is numerically less than the majority—was brought to light by this decision. The Ram Krishna Mission can legally form and run a charity since it is a religious institution, according to the Supreme Court. The court's decision in the T.M.A. Pai case upheld the validity of educational institutions established under Article 26 (a). A total of 87

But since they both prohibit government intervention while preserving their independence, these two principles are connected. It is necessary to allow religious minorities to run their institutions, the Supreme Court said in ***Rev. Sidhajbhai Sabhai v. State of Bombay***[30]. The

[28] (2014) 8 SCC 1
[29] 1954 SCR 1005
[30] 1963 SCR (3) 837

importance of upholding Articles 26 and 30 of the Indian Constitution in safeguarding the autonomy of minority-run educational and religious institutions was emphasised by the Court. Generating considerable profits under the pretence of education is forbidden under both provisions, as Article 26(a) supports humanitarian aims and Article 30(1) is a welfare regulation.

Article 30 and Article 29: Cultural and Educational Preservation

These two rights, which are called Cultural and Educational Rights, are outlined in Articles 29 and 30 of the Constitution. Article 29(1) guarantees the right of minorities to maintain their language, orthography, and culture, while Article 30 lays out the institutional framework for the educational development and preservation of these identities. They work together to promote cultural variety while strengthening national unity. Although at first glance these comments seem to be rather similar, a deeper inspection reveals several inconsistencies. The relationship between Article 30 and Article 29(1) is considerable. One way that schools may help a minority group is by ensuring that its script, language, and culture are not lost. By creating and sustaining educational institutions, minority groups may assist their youngsters in learning their language and culture. While Article 30(1) does protect this freedom, it does not compel groups who work to maintain minority scripts, languages, or cultures to obey. Some minority-founded schools may be qualified for special status as general education institutions. Article 29(1) protects the rights of Indian nationals, but Article 30 does not stipulate any qualifications for citizenship. Article 30 protects minority languages or religions, although the majority is also covered by the "any section" phrase in Article 29. According to the Supreme Court's ruling , "articles 29 and 20 establish two distinct rights" and "the scope of article 30(1) cannot be diminished by incorporating the consideration upon which article 29(1) is predicated." A wide right to maintain one's language and culture is guaranteed in Article 29(1), and any kind of organisation, even secular ones, can be founded by minorities according to Article 30(1). Article 29(2) states that schools for minority groups cannot discriminate against students because of their race, religion, caste, or language.

At the present time, these parts work to uphold the constitutional goals of protecting students' access to quality education and maintaining a welcoming environment for students from all backgrounds.

Article 30 ensures autonomy and fosters equality in education and cultural preservation; Article 29 protects rights; and Article 30 puts duties on minority institutions. A clause in the

Gujarat University Act that allowed the University to take over undergraduate education from minority colleges was found to be in violation of article 30(1) in the case of ***The Ahmedabad St. Xavier's College v. State of Gujarat***[31]. It was originally anticipated that minority colleges would not be able to be converted into constituent colleges and merged into the University. This was done to protect their distinct minority character. The relationship between articles 29 and 30 was also emphasised by the Supreme Court. Article 29 protects cultural rights, while Article 30 allows institutions to promote them. These verses show how the Constitution safeguards the bonds of brotherhood and sisterhood that bring people together, no matter how different they are. There is a two-way street between cultural preservation and national integration that minority educational institutions help to facilitate.

Article 30 vis-à-vis Part IV and Part IV-A: DPSP and Fundamental Duties

Article 30 is closely tied to Part IV of the Indian Constitution, which describes the Directive Principles of State Policy, due to its socialist perspective. [32]The rights guaranteed to minority groups under Article 30 are linked to Part IVA since they are consistent with the concept of obligations. Paragraphs 30, 46, and 51A (e)(f) describe the criteria, and this discussion will attempt to show how they all fit together.

Members of historically persecuted groups, such as the Scheduled Castes and Tribes, have a duty to the state to safeguard their material and intellectual well-being, according to Article 46. While Article 30 emphasises on minorities, both articles seek educational equality in order to achieve social justice. The formation of minority institutions under Article 30 partially meets the constitutional mandate of using education to empower society's most marginalised people. The courts argue that a balance must be struck between minority rights and the state's obligation to foster social justice. [33] Article 51A100, Part IVA of the Indian Constitution, offers a framework for comprehending the interdependence of the rights given by Article 30. According to Articles 51A(e) and (f), people are expected to conserve cultural heritage and promote peace. Article 30 advances the principle by allowing minority groups to join organisations with the dual objective of teaching the public about their history and culture while also conserving that legacy. Promoting variety, which represents distinction,

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[31] **1974 AIR 1389**

[32] Menon, M. (2022). Negotiating Inclusion: Minority Institutions and Constitutional-Legal Dimensions in India. In: Sengupta, P. (eds) Critical Sites of Inclusion in India's Higher Education. Palgrave Macmillan, Singapore. https://doi.org/10.1007/978-981-16-8256-8_3

[33] Reddy, K. Vivek, 'Minority Educational Institutions', in Sujit Choudhry, Madhav Khosla, and Pratap Bhanu Mehta (eds), *The Oxford Handbook of the Indian Constitution* (2016; online edn, Oxford Academic, 6 Feb. 2017), https://doi.org/10.1093/law/9780198704898.003.0051, accessed 30 Mar. 2025.

and developing togetherness are social obligations that align with Article 30's provisions for minority institutions. As a result, by utilising education to cultivate mutual respect, minorities are fulfilling their constitutional commitment to honour a common heritage and promote fraternity.

Based on the analysis offered, it is apparent that the Article 30 provision and other portions of the constitution are mutually beneficial. The relationship between the Constitution and basic ideas emphasises its significance. A careful study demonstrates that the preamble meets the standards of Article 30 on several occasions. [34]

The phrasing of Article 30 indicates several interpretations of democracy, socialism, and secularism. Because it upholds the core premise of socialism—advancing the interests of all disadvantaged groups—the Constitution's protection of minorities is akin to the state's social welfare component. Another argument in favour of secularism is that children from minority groups would benefit from a secular education in order to adapt into mainstream society. One approach to achieve this aim is to guarantee that religious minority have same rights as other young people. A pluralist democracy cannot function without individual rights, and this system is consistent with democratic principles of inclusion and participation.

Since its establishment in 1999, the underlying purpose of socioeconomic justice has been compatible with the safeguarding of rights guaranteed by Article 30. The purposes of Article 46, which are to ensure that all persons have equal access to education and to promote educational justice, are now consistent with the rights mentioned in Article 30. The concept of freedom described in the Preamble is congruent with this right. According to Article 30(1), individuals have the right to organise and lead groups that represent their values, views, and worldview. [35]This helps to build trust in the constitutional vision. The relationship between Articles 14 and 30 is connected to the previously described concept of "equality of status and opportunity"; the constitution supports this foundational conception of equality by providing specific protection and reasonable classification.

Fraternity has played an important part in the issue since this marginalised group has the legal right to establish a union as a result of the benefits bestowed on them. As a consequence, they will be able to convey the importance of sustaining the nation's sovereignty and peace.

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[34] Kaushik, Anil. "MINORITY EDUCATIONAL INSTITUTIONS." *Journal of the Indian Law Institute*, vol. 38, no. 1, 1996, pp. 108–15. *JSTOR*, http://www.jstor.org/stable/43951628. Accessed 30 Mar. 2025.

[35] Negi, P. (2020). Social Policies and Institutional Arrangements for Minorities and Special Categories in India: An Overview and the Way Forward. In: Gao, J., Baikady, R., Govindappa, L., Cheng, SL. (eds) Social Welfare in India and China. Palgrave Macmillan, Singapore. https://doi.org/10.1007/978-981-15-5648-7_16

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