

NOTES & COMMENTS

“Upliftment of Minorities through Empowerment in India”: A Socio – Legal Study

**ShashankTyagi¹&
Shabnamkisa²**

The minority problem is tricky in India. It has spread all over the world and India is no exception. The Promotion and Protection of the people belonging to Minorities is the responsibility of the State in which they live. This assurance of being protected and promoted by the state will contribute to the softening of tensions among individuals and groups in the country. Also, it would lead to political peace and social stability. Education is the prime tool for the minorities to improve their standard of living and for their Economic and Social development.

Meeting their religious values and ensuring their human rights and acknowledging the dignity and equality of the individuals have become an acid test for the Muslims specifically.

Our Constitution, wedded (in preamble) with aims of equality, fraternity, liberty and justice, is committed to provide all safeguards and security to the minorities living in the country. But despite constant and reliable efforts by the government these marginalized and excluded groups have not made much headway as was expected. They continue to experience exclusion at various levels in so many ways.

All human beings are related to each other as they are descendants of common ancestors. Hence their separation into race, tribe, group should only be made for the sake of convenience and distinction.

As per J.A Laponce views the term minorities comes from the political point of view and described it as “Minority is a group of people who because of a common racial, linguistic, religious or national heritage which singles them out from the politically dominant cultural group, fear that they may either be prevented from integrating themselves into national

¹Assistant prof. in Law, Law College Dehradun, Uttarakhand University Dehradun

²BALLB XthSem Law College Dehradun

community of their choice or be obliged to do so at the expense of their identity.”³

The minorities have experienced *discrimination* everywhere and that became their principal problem. There exists no minority unless an attitude of dominance is being showcase by the majority of the people with reference to their culture, religion or language.”⁴

The Constitution adopts a two-pronged approach in providing protection to them. While one aims to guarantee the protection from discrimination ensuring equality of treatment and freedom of religion, the other relates to the provision of some special rights needed to preserve their identity and culture.

The term minority has been used to describe more or less distinct strata of society, groups, living within a state, being dominated by the majority group.

The Indian Constitution incorporated the Fundamental Rights which in its Article 29 and 30 provides for the Cultural and Educational Rights. It is also defined in the basic structural of the constitution (preamble of the Indian constitution). These two Articles head read as "Protection of interests of minorities' and' Right of minorities to establish and administer educational institutions respectively.

The text of article 29 reads as follows⁵.

1. Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
2. No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

Whereas article 30 has the following reading⁶:

³ J.A. Laponce, The Protection of Minorities, Berkeley, University of California Press, 1960

⁴ L. Wirth, The Problems of Minority Group in Linton Ralph (ed.) The Science of Man in the World Crisis, New York, Columbia University Press, 1947

⁵ The Constitution of India.

⁶ The Constitution of India.

1. All minorities, whether based on religion or language, shall have the right to establish and administer educational institution of their choice.
 - (1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the state shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict - abrogate the right guaranteed under this clause.
2. The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

In *Patroni Vs. Kesovan*⁷ case the court held that the word ‘minority’ is not defined in the Constitution and in absence of the special definition any community, religious group or linguistic which is numerically less than fifty percent of the population of the state concerned is entitled to the fundamental right guaranteed by the Article 30 of the Constitution.” Minority is a community or group of people with separate religion and language and less than fifty percent of the entire population may be treated as a minority community.”

In *State of Madras Vs. ChampakamDorairajan*⁸, the government order was challenged on the ground that it denied admission only on the ground of religion or caste. The court held that the order was invalid for being violative of Article 29 (2).

In *Sidharaj Bhai Vs. State of Gujrat* ⁹ a minority run teachers training college was given protection under article 30 (1) against too much state interference, Admission of students to an institution from communities other than the concerned minority does not change the character of the minority institution. In fact, under article 29 (2) a state aided minority run education institution is obliged not to deny admission to members of other communities on grounds only of religion, race, caste or language.

⁷ A.M. Patroni Vs. Kesavan, AIR 1956, Ker. 75

⁸ AIR 1951 SC226

⁹ AIR 1963 SC540

The Constitution of India is the lengthiest and elaborate Constitution in the world but created many problems for the future progeny instead of solution of the problem. . The Constitution guarantees right to equality under article 14 and non-discrimination under various articles likes art 15, art16,art 17 to all the citizens. The right to equality is a fundamental and most cherished right in the modern world, but the constitutional philosophy of the right to equality means abolition of privileges and confer everyone to equal opportunity such that they can fully enjoy the right according to his capacity, the state shall not interfere in this matter.

The following suggestions are proposed with a view to making legislation judicious, proper and reasonable:

- a. The creamy layers amongst the backward classes must be excluded or it should be in proper manner.

But unfortunately the Apex Court has excluded the creamy layers only from amongst the OBCs retaining it amongst the SCs and STs. It is crystal clear partiality and should be reconsidered.¹⁰

- b. To achieve a casteless and classless society in India, the lists of reserved category could be reduced on the basis of income and merit.
- c. Exclusion from reservation all those either of whose parent is/was employed in higher posts or is qualified professional or income tax assesses.
- d. For reservation policy caste should not be the only criteria for identifying backward class.
- e. Backwardness for the purpose of protective discrimination must be based on economic disadvantage¹¹.

In India, the minority rights have always been a controversial, burning, debatable issue.

The minority desires the enjoyment of all human rights equally and basic freedoms without any discrimination. What else they desire is the *positive support* of the state.

¹⁰ <https://www.telegraphindia.com/india/govt-against-creamy-layer-plea-for-sc-sts-219229>.

¹¹ <http://www.dnaindia.com/india/report-centre-to-supreme-court-won-t-introduce-creamy-layer-2598798>.

Their problem is the most baffling question confronting modern democracies. The framers of the Constitution of India were well aware of the complex character of the problem. They had a firm faith that holistic national conscience would grow if the minorities are guaranteed liberty, equality, fraternity and justice.¹²

The judicial precedents have made it clear that running of minority institutions is also as fundamental and important as the right conferred on the other citizens of the country.

The Researcher intends to give protection in the matter of culture, language and script not only to a minority technically, but also to a minority in the wider sense of the terms.

Education is an important medium for not only imparting knowledge but also attitude, values and modes of behaviors. It is through education that transmission of languages, culture and moral value is possible which will ultimately *uplift* the stature and standards of the minority people.

Some strata of people belonging to minority is in dire need of **Political and Economical Empowerment**. Little is known about what impact representation by a minority legislator has on the outlook of a minority voter. Minority political behavior must be given due consideration.

In general, the minority representation is **unsettling** and suggests that method to enhance and uplift the minorities must be adopted.

Although, the focus of the researcher is on upliftment of the Minorities through empowerment, so as to enhance the representation and living standards of the underrepresented groups.

¹² <https://www.aclu.org/other/death-penalty-questions-and-answers>.