

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIAL TEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted IMoot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **AN ANALYTICAL STUDY ON EDUCATIONAL RIGHTS OF MINORITIES UNDER INDIAN CONSTITUTION**

AUTHORED BY - SMITA R. NAIK,  
Semester-III, Secunder year LLM, PES' Modern Law College, Pune

## **ABSTRACT**

Concept of religious minorities and their rights, constitution safeguards for fundamental rights of minority with case laws and its impact have been discussed in this paper. In India, citizens are classified on the basis of religious minorities as Muslims, Christians, Sikhs, Buddhists, Parsees and Jains; and formers are highest amongst all other minorities. Minority problem has been base of Indian life. Nature of problem of minorities is not always and everywhere the same and it arises only in democracy. Rights of minorities are inherent part of citizens and protects from being discriminated against cultural, linguistic or religious identity. Article-14 prohibits unequal treatment to citizens. Articles-29 and 30 deals with cultural and educational rights of citizens. Guard of rights of religious and ethnic minorities is mainstay of secular values. Article-30 is one of the provisions that promote reservation of minority rights and promises rights to establish and administer educational institutions which help to establish policies regarding aid to minority educational institutions. Analytical study delves into educational rights of minorities under Constitution focusing on legal framework, judicial interpretations, and the balance between minority autonomy and state regulation. Study examines Articles 29 and 30 that are pivotal in safeguarding rights of religious and linguistic minorities to establish and administer educational institutions. These provisions are analyzed in light of India's pluralistic ethos and challenges posed by ensuring both inclusivity and quality in education. Study also explores implications of these rights on national integration, social cohesion, and the preservation of cultural diversity. It highlights the complexities involved in balancing rights of minorities with broader objectives of social justice and educational equity.

**Keywords:** Religious minorities, minority's rights in India, constitutional safeguards

## 1. INTRODUCTION

Religion is important characteristic of Indian population and is way of life. It affects the social, economic and political structure of society. India is birth place of four major religions viz., Hinduism, Buddhism, Jainism and Sikhism; the most dominant being Hinduism. Other world religions viz., Christianity and Islam came to India from other lands. Hinduism is thousands of years old religion. Syrian Christians appeared on west coast of India in first century of Christian era. Arab traders brought Islam to west coast of India much before Muslim conquest of our country. Prosecuted Jews and Parsis found sanctuary on Indian soil. Sikhism appeared on religious scene of India only about five centuries ago. Spatial pattern of distribution of different religious groups had undergone drastic changes due to large scale migrations as a result of partition of India in 1947. Before partition, in accordance with Censes, 1941, Hindus and Muslims accounted for 66.5 and 23.7 per cent of population of the sub-continent, respectively. With partition, large number of Muslims migrated from India to Pakistan and Bangladesh and Hindus migrated to India from these countries. Consequently, the proportion of these two religious communities in the total demographic population was changed. The percentage of Hindus rose to 84.1 per cent and of Muslims fell to 9.8 per cent (Census, 1951). Since then, percentile of Hindu population has fallen while that of Muslims has increased considerably.<sup>1</sup>

## 2. RELIGIOUS MINORITIES

Religious minorities typically have smaller number of followers compared to dominant religious groups. They have distinct religious beliefs, practices and rituals that set them apart from majority religion. They often bring diverse cultural practices, traditions and languages to society they belong to. Due to minority status, they may face discrimination and prejudice base and on their religious beliefs. They may encounter social and economic challenges.

## 3. MINORITY COMMUNITIES IN INDIA

In 2005, Union Government notified five communities viz., Muslims, Christians, Sikhs, Buddhists and Parsis as minorities at the national level. In 2014, the then government notified followers of Jainism as a minority community, making them the sixth on the nationallist. As per the Census 2011, the percentage of minorities in the country is about 19.3 percent of the total population of the country. Population of Muslims is 14.2 per cent, Christians 2.3 per

---

<sup>1</sup> Available at: <https://www.com/population/population-of-various-religious-communities-in-india/19833> last seen on 3-8-2024.

cent, Sikhs 1.7 per cent, Buddhists 0.7 per cent, Jain 0.4 per cent and Parsis 0.006 per cent; population of Hindus is 79.8 per cent.

#### 4. CONCEPT OF MINORITY RIGHTS

Word minority has been derived from French word *minorite* or Latin *minoritas* and joins with 'ity' suffix to make meaning of small in number. As per Oxford dictionary, minority means small group of people within a community or country, differing from main population in race, religion, language or political persuasion<sup>2</sup>. As per Law dictionary, minority is a group of people that differ in some way from majority of the population or any part of a whole that is smaller than the other parts.<sup>3</sup> Legal dictionary defines minority as the state or condition of a minor, infancy opposite of majority. In the context of the constitution's guarantee of equal protection minority does not have merely numerical denotation but refers to identifiable and specially disadvantaged groups such as those based on race, religion and ethnicity or national origin.<sup>4</sup> The word minority has not been defined at any place in Indian Constitution but refer to minorities under various provisions (Articles 29, 30, 350A and 350B) under the Constitution wherein, the minority means 'a group of population less than half of the total population of the state or country where they have less power than majority population or the people of the society who are lesser in strength than other major groups of people of the society'. As per the Constitution, citizens are classified on the basis of Religious or Linguistic minorities *viz.*, Muslims, Christians, Sikhs, Buddhists, Parsees and Jains. These communities which are lesser in strength in comparison to majority population and Muslims are the highest number amongst all other minorities in India. There are differences and divergence of minorities at different places. In some states Muslims, Christians, Sikhs, Buddhists, Parsees and Jains are considered as minorities, while at some other places Hindus are considered as minority only in two Indian states, *i.e.* Jammu & Kashmir and Punjab where Hindus are or less than 50 per cent of the total population of the State and hence they are considered as the minority in that particular State.<sup>5</sup>

The assaults in ancient India created minority communities *e.g.* Muslims, Christians, Anglo-Indians and migration of community fearing religious persecution *e.g.* Parsis. Divide and rule policy of colonial power of British in turn pressed into congregation of minorities. Then they

---

<sup>2</sup> Available at: <https://en.oxforddictionaries.com/definition/minority>; last seen on 3-8-2024.

<sup>3</sup> Available at: <http://law.yourdictionary.com/minority#G28grCyyKyR8PYiZ.99>; last seen on 3-8-2024.

<sup>4</sup> Available at: <http://legal-dictionary.thefreedictionary.com/minority>; last seen on 3-8-2024.

<sup>5</sup> Khan M. (2018). Protection of rights of minorities under constitution. PhD thesis submitted to Dept. of Law, Aligarh Muslim Univ. Aligarh (U.P.).

started facing problems viz., protection, communal tensions/riots and nonexistence of representation in civil service and politics. People sharing culture, language, system of beliefs- traditions are called an ethnic group. In 19<sup>th</sup> century, some of the ethnic groups came together and proclaimed their nation-states over 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 the context Constituent Assembly in 1950 unanimously accepted safeguard mechanism for minority communities, depressed backward classes and tribal areas from India<sup>6</sup>.

Nature of problem of minorities is not always and everywhere the same however, problem of minority arises only in democracy. Minority problem has been base of Indian life. It had very much influenced cultured political life of the country before Independence. Major problem at that time was with Muslim minority and this led to partition of the country causing in its wake wide spread misery and suffering. Partition diluted Muslim minority problems to some extent but it did not solve minority problem as such because number of other minority groups as well as large Muslims was still present in the country.<sup>7</sup>

Rights of minorities are inherent part of human rights in India. Rights protect citizens from being discriminated against on the grounds of cultural, linguistic or religious identity. Individuals belonging to minority must be able to learn, use their language and name, preserve and freely express identity. Such rights therefore, guarantee equality before the law, protection of basic freedom, non-discrimination and protection against violence on grounds of identity, participation in political and public life, possibilities for cooperation with other communities and organizations within States. Rights promote tolerance and respect for diversity wherein, aim is to ensure that minorities and majorities live peacefully together and support each other in building better future of the country<sup>8</sup>.

---

<sup>6</sup> Available at: <https://blog.ipleaders.in/minority-rights-constitution-india/> Last seen on 3-8-2024.

<sup>7</sup> Chakraborty (2013) Right to edn. of minorities. Kolkata Univ. <https://shodhganga.inflibnet.ac.in/handle/10603/>

<sup>8</sup> Supra 5

## 5. ARTICLES RELATED TO FUNDAMENTAL RIGHTS OF MINORITY

There are six fundamental rights protected in the Constitution which intends to preserve culture of minority groups; society being heterogeneous with diversity is one of its strengths and assures rights of minorities to preserve the diversity and provides avenues for all groups including marginalized ones to protect, preserve and propagate their culture. Article-14 prohibits unequal treatment to citizens.

Article-14(1) justifies treatment of law be same to every citizen and gives same responsibilities (equality before law). Articles- 29 and 30 deals with cultural and educational rights of citizens. Article-29 intends to protect interests of minority groups. Article- 29(1) provides any section of the Indian citizens having distinct culture, language or script, the right to conserve their culture, language and script. Article-29(2) says that State shall not deny admission into educational institutes maintained by it or those that receive aid from it to any person based only on race, religion, caste, language or any of them.

Article-30 gives rights to minorities to form and govern own educational institutions. This Article is one of the important rights of minorities (charter of education rights). Article- 30(1) provides the rights to establish and administer educational institutions of their choice. Sub-clause 30(1A) has strengthened minority educational institutions in case of compulsory acquisition. The state has to keep in mind that the amount which is needed for the acquisition of the property should not restrict the right guaranteed by the clause (1). Article-30(2) says that State shall not, when granting aid to educational institutions, discriminate against any educational institution on grounds that it is under the management of minority regardless of religion or language, while giving the aid.

Article 29(2) and Article 15(1) are very similar, since both prevent discrimination on the basis of caste, race and sex and are sometimes seen as mutually exclusive, however they differ vastly. Article-15 provides broader ambit against discrimination on the basis of caste, race and sex whereas Article-29 provides specific restitution for those who have faced discrimination from State-run educational institutions at the time of entry or admission.<sup>9</sup>

---

<sup>9</sup> Available at: [file:///C:/Users/NAIK/Desktop/Rights%20of%20Minorities/Article%2030%20of%20the%20Constitution%20of%20India\\_%20Right%20of%20Minorities%20to%20Establish%20and%20Administer%20Educational%20Institutions%20\\_%20constitution%20simplified.html](file:///C:/Users/NAIK/Desktop/Rights%20of%20Minorities/Article%2030%20of%20the%20Constitution%20of%20India_%20Right%20of%20Minorities%20to%20Establish%20and%20Administer%20Educational%20Institutions%20_%20constitution%20simplified.html) Last seen on 3-8-2024.

## 6. IMPORTANT CASE LAWS

- 1) Opposed to traditional view Article-29's scope is wider than Article-30 because Article 30 deals with only two kinds of minority *viz.*, religious and linguistic and Article-29 deals with any Indian citizen including the majority. Article-29 can only be applied to Indian citizens while Article-30 can be applied for both citizens as well as non-citizens. SC has ruled in case of *S. K. Patro v. State of Bihar*<sup>10</sup> that minority community can only claim the privileges under Article-30 must be minority person who is residing in India; foreigners who are not resident or nor citizen in India do not come within the scope of Article-30.
- 2) Article 30(1) provides that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice." This clause makes it clear that this privilege is given, specifically and specially, only to religious and linguistic minorities. However, it is not necessary that, in order to avail of this privilege, one should prove that the relevant group constitutes both a religious and a linguistic minority. It can be either or both. This was made clear by the SC in *D. A. V. College v. State of Punjab*.<sup>11</sup>
- 3) In *Ravneet Kaur v. Christian Medical College*<sup>12</sup>, SC held that private institution which is not receiving aid from State can't discriminate against admitted person on religion ground.
- 4) In *State of Madras v. Champakam Dorairajan*,<sup>13</sup> question of Article-29(2) was challenged, SC held that the classification to the Govt. the order was based on race, religion and caste which were inconsistent to Article-29(2).
- 5) Kerala education bill was providing certain laws which were securing salaries, condition of services of teachers who teach in educational institution. Provisions were being equally applied to minority institutions which were established under Article-30. Minority educational institution claimed that bills which are regulating matters of salaries, appointment and basic qualification are violating their administrative power the way they want. HC<sup>14</sup> held that in the name of minority rights they can't exploit teachers, they have to treat them in good manner because when the bill is providing there should be minimum salary and qualification, State is ensuring protection of people

---

<sup>10</sup> SCC (1969:1) 863, AIR 1970

<sup>11</sup> AIR (1971) 1737 SCR: (1971) 688.

<sup>12</sup> AIR (1998) SCT 210.

<sup>13</sup> AIR (1951) SC 226.

<sup>14</sup> AIR (1958) SC 996.

working in those institutions.

- 6) In the Managing Board of the Milli Takimi Mission Bihar & Ors. V. State of Bihar & Ors., SC held that running minority institution is fundamental right and as important as other rights presented to citizens of the nation. Refusal to give affiliation or recognition by the statutory authority without just and adequate grounds is an infringement of the right ensured under Article-30(1) of the constitution.

## 7. IMPLICATIONS AND SIGNIFICANCE OF ARTICLE-30

Right of minorities to establish and administer educational institutions has several implications and significance as under:<sup>15</sup>

- 1) Preservation of cultural and linguistic identity: Article-30 plays a crucial role in preserving the cultural and linguistic identity of minority communities. By allowing them to establish and manage their own educational institutions, it ensures that their unique traditions, languages, and values are passed on to future generations.
- 2) Promotion of diversity and pluralism: Existence of minority educational institutions contributes to diversity and pluralism of Indian education system. It provides students with a wide range of choices and perspectives, fostering a more inclusive and tolerant society.
- 3) Empowerment of minority communities: Article-30 empowers minority communities by giving them control over the education of their children. It allows them to shape the curriculum, teaching methods, and overall educational environment to best suit their needs and aspirations.
- 4) Protection against discrimination: Protection provided by Article-30 safeguards minority institutions from discriminatory practices; ensures that they receive equal treatment and the opportunities of financial aid, recognition, and other aspects related to education.
- 5) Constitutional balance: Article-30 strikes balance between rights of minorities and the state's responsibility to ensure quality education. While minority institutions enjoy significant autonomy, reasonable regulations can be imposed to maintain educational standards and prevent misuse of the rights granted.

---

<sup>15</sup> Supra <sup>8</sup>

## 8. CHALLENGES AND CONTROVERSIES OF ARTICLE-30

Despite the constitutional protection provided by Article 30, there have been some challenges and controversies surrounding its implementation as under:<sup>16</sup>

- 1) Reservation policies: One of the key debates revolves around applicability of reservation policies in minority educational institutions. While the Constitution allows for reasonable regulations, extent to which reservation should be imposed has been a subject of contention.
- 2) Recognition and aid: Process of recognition and granting financial aid to minority institutions has sometimes been barred by bureaucratic delays and conflicts which led to concerns regarding the effective implementation of Article-30.
- 3) Autonomy versus accountability: Balancing autonomy of minority institutions with need for accountability and transparency has been a challenge. Striking the right balance ensures that minority institutions can function effectively while maintaining educational standards.
- 4) Uniformity in education: Some argue that the existence of minority institutions may hinder efforts to achieve a uniform education system. However, proponents of Article-30 argue that diversity and pluralism are essential for a vibrant and inclusive education system.

## 9. RESERVATION IN FAVOUR OF MINORITY COMMUNITY

Guard of rights of religious and ethnic minorities is mainstay of India's secular values. Article-30 is one of the many provisions that promote reservation of minority rights. Article-30 promises the rights of minorities to establish and administer educational institutions which help Govt. to establish policies regarding the aid to minority educational institutions.

## 10. IMPORTANT CASE LAWS

- 1) In *St. Stephen's college v. University of Delhi*,<sup>17</sup> the preference given to Christian students' college was challenged. Here, SC decided that in the selection procedure half of theseats will be reserved for the minority community and the rest half will be on merit.
- 2) But this judgment was overruled by *TMA Pai Foundation case*.<sup>18</sup> The Supreme Court

---

<sup>16</sup> Supra <sup>8</sup>

<sup>17</sup> SC case no. 1868 of 1980.

<sup>18</sup> SC case no. 317/1993

held that the unaided institutions since they do not receive any aid from the state out of the state fund are not subject to the admission procedure established by the state. It meant that they can follow their own admission procedure including their own admission test provided the admission is based on merit, an open and transparent system. Similarly, they are not bound by the fee structure provided by the state, provided do not collect any capitation fees. The court has granted the power to the state to fix quotas for minority students. This case drew distinction between aided and unaided governmental regulation on private institutions.

- 3) In *P. A. Inamdar v. State of Maharashtra*<sup>19</sup>, SC held that the policy of reservation to admit students is not applicable to minority institutions. The state has no power to reserve seats in educational institutions. The admission process can be based on an admission test or merit.
- 4) In *Azeez Basha v. Union of India (Aligarh Muslim University Case: 1967)*, SC held that an educational institution, not been formulated by the minority community then they have no right to direct it. AMU is not a minority institution as established by Act of Parliament. The term 'established' and 'administered' have to be read in consideration. Status of minority to AMU struck down in *Dr. Naresh Agarwal v. UOI* case.
- 5) Recent verdict (1-8-2024) of SC six benched judgment has upheld that the States have the authority to further sub-divide groups within the reserved category based on the varying levels of backwardness to better allocation of reservation benefits.

## 11. MISCELLANEOUS ARTICLES RELATED TO MINORITY RIGHTS

Some articles in the Constitution which openly or silently speak about the rights and privileges of minorities in India.

Article-38 ensures State to secure social order for promotion of welfare of citizens permeated by justice- social, economic and political and to minimize inequalities in income, status, facilities and opportunities.

Article-39 states free legal assistance and equal justice of various dimensions and direct State to secure livelihood for all citizens, equitable distribution of material properties for common good. It also gives provision for prevention of concentration of wealth, equal pay for equal work and

---

<sup>19</sup> MANU/SC/0482/2005.

for giving opportunities, facilities to the children for the development.

Article-46 is about Gandhian principles. It states that State may take necessary action to promote educational and economic advancement of the weaker sections of the society and to protect them from social injustice and exploitation.

Article-347 provides power to the President to officially recognize a language, which is being spoken by the substantial population.

Articles- 331, 333, 334, 336 and 337 have special provisions of assuring representation of Anglo Indians in Union and State legislatures.

Article-350(B) gives provision for appointing Special Officer for linguistic minorities.

## **12. NATIONAL COMMISSION FOR MINORITIES**

In 1978, setting up of Minorities Commission (MC) was envisaged in the Ministry of Home Affairs Resolution. In 1984, the MC was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare, which excluded linguistic minorities from the Commission's jurisdiction in 1988. In 1992, with the enactment of NCM Act (1992) MC became statutory body and was renamed as the NCM. First National Commission for Minorities with statutory status was formed in 1993. Commission consists of 7 members; include Chair- and Vice- chairperson along with 5 other members. Members of Commission must belong to minority communities and amongst persons of eminence with ability and integrity. Every member holds office for a period of three years.

## **13. SUGGESTIONS / RECOMENDATIONS**

In India, major incidences occurred wherein atrocities were committed against religious minorities *e.g.* Jabalpur-riots (1961), Gujarat-riots (1969), Sikh-massacre (1984), Bhagalpur-riots (1889), Kashmir-violence (1989), Godhara-train burning (2002), Muzaffarnagar-riots (2013) and Delhi-riots (2020); thus created history of clashes and/or communal violence vulnerable situation for minorities. Thereby there is need to preserve their identity and safeguards to rights on social, economic and political fronts. On other hand, the Constitution provides many ways to protect their rights and also offers special rights and freedoms to minority community to conserve the democratic character. However in practical reality,

minorities give birth to various problems. India has already declared itself as secular country moreover, spirit of the constitution is also secular; all political parties claim to be secular but in practice, none of them follows it. Political parties play major role in politicizing religious issue for vote banks.<sup>20</sup> In order to protect constitutional values of individual dignity, equality and liberty citizens must strive to discourage and remove hate-filled messages from the society. Political leadership must take leadership role in disowning hateful elements within the party and uphold commitment towards Constitution. Comprehensive anti-hate legislation and policy must be brought to act as deterrent against hate crimes. Few anti-social elements must not be allowed to jeopardize gains made in this regard.<sup>21</sup>

Indian model of social cohesion is summarized as mechanism to resolve tension between equal recognition and differential treatment; crux is based on recognition of cultural differences among religious communities. To elaborate further, religious communities in India generally struggle to be treated equally in the political domain and to be treated unequally in their social and cultural aspects. Be it Muslims, Hindus, Sikhs, Christians or Buddhists in India, there are aspects of religious practices that require special concessions to be treated as exceptions in policy decisions. India's model of social cohesion is operative and flexible. Representatives of minority communities in constituent Assembly chose community rights over individual rights. Universalization of political and social rights enshrined among the fundamental rights in the constitution encouraged minorities to strive for cultural rights. Secularism as conceptual force shaped religious minorities as a political group in post- independence India. Uniform Civil Code calls for formulation of single law for all religious communities in matter such as marriage, divorce, inheritance, adoption and so on. Dr. B. R. Ambedkar while formulating the Constitution had said that UCC is desirable but remain voluntary. This aspect that would fulfill when the nation would be ready to accept it and social acceptance of UCC' hence, this was added as part of DPSP as Article-44.

#### 14. CONCLUSION

Foundation laid by secularism in constitution towards protection and empowerment of religious minorities are still facing challenges for seven decades. To realize principles of equality, justice, and religious tolerance proposed in constitution persistent efforts are obligatory. Idea of

---

<sup>20</sup> Supra 6.

<sup>21</sup> Available at: <https://byjus.com/free-ias-prep/minority-protection-and-india-upsc-notes/#:~:text=Article%2029%20protects%20the%20interests,language%20or%20any%20of%20them> Last seen on 3-8-2024.

secularism intends to aim at unity of all religions but intended remedy of secularism itself became the nemesis of unity and source of divisiveness; the present version of secularism is in no way solution to divisiveness of religion.

## 15. BIBLIOGRAPHY

<https://www.com/population/population-of-various-religious-communities-in-india/19833>

<https://en.oxforddictionaries.com/definition/minority>

<http://law.yourdictionary.com/minority#G28grCyyKyR8PYiZ.99>

<http://legal-dictionary.thefreedictionary.com/minority>

Khan M. (2018). Protection of minority's rights. PhD thesis submitted to Aligarh Muslim Univ.<https://blog.ipleaders.in/minority-rights-constitution-india/>

<https://shodhganga.inflibnet.ac.in/handle/10603/>

SCC (1969:1) 863, AIR 1970

AIR (1971) 1737 SCR: (1971) 688.

AIR (1998) SCT 210.

AIR (1951) SC 226.

AIR (1958) SC 996. MANU/SC/0482/2005

SC case no. 317/1993

IJLRA