

# The Indian Constitution and its Impact on Minority Protection

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**Abstract:** India has many civilizations, languages, religions, castes, races, tribes, clothing, culinary patterns, lifestyles, and living situations. Despite its variety, Hinduism is the majority religion in India (79.82%). Sikhism, Parsi, Buddhism, Islam, and Jainism are additional minor faiths in India. The numerical discrepancy among religious followers fosters riots and community violence. This makes minorities more susceptible to persecution by mainstream religion followers. India has a regrettable history of intercommunal conflict and bloodshed. Several international constitutions support majority rule with minority rights. Their constitution's ban the majority group from exploiting the minority. Several articles of the Indian Constitution recognize religious, cultural, linguistic, and script-specific minorities. Unfortunately, this broad minority designation may be oversimplified. Understanding minorities in India requires more than merely counting non-dominant groups. This article analyzes the Indian Constitution's religious freedom and minority provisions' constitutional notions and theory..

**Keywords:** Religious Minorities, Linguistic Minorities, Equal Protection

## I. INTRODUCTION

An ethnic group is defined as individuals who share a similar language, culture, set of values, and customs. Several ethnic groups united and declared themselves independent states over their own regions throughout the 19th century [1]. The language, culture, and customs of the recently formed nation were not desired by other ethnic groups residing in the same areas since they are so different from one another. However, shifting state borders forced several groups to change their nationality [1,2]. Despite significant cultural differences from the majority of society, these groups want to maintain their core identity. They are a small group of people who are clearly distinct from the others [3].

India is a multi-religious, multi-ethnic, and multi-cultural country. India is home to a wide variety of cultures, beliefs, traditions, and customs. Every one of the eight main faiths has its own history and culture. From Kashmir to Kanyakumari, more than 800 ethnic groups speak 22 official languages. In a close-knit representative democracy like India, minority groups are recognized for their distinctions, and while they have minority rights within the congregation, starting a minority organization is a personal choice [4].

The continuous demands made by minorities, especially in affluent and progressive countries, sparked a new style of thinking and debating in academic groups that were mostly focused on the politics and traditions of majority and minority. This new way of thinking and reflecting was founded on a thorough analysis of the relationship between the struggles of minorities and the pervasive human rights abuses that occur all over the globe [5].

This study aims to identify the ethnic factions that constitute minorities in regard to the Indian Constitution. Additionally, the article attempts to explore some of the constitutional protections given by the Indian Constitution that are intended to defend and safeguard the freedoms and rights shared by the country's minorities.

## Indian Constitution and Minorities

According to the Indian Constitution and, more generally, international human rights accords, positive action, including positive discrimination, is necessary for the advancement and well-being of minorities. Minority rights in India prevent discrimination on the basis of a person's religion, race, culture, or language. Minority members must be permitted to

publicly express who they are, learn and speak their original languages, and use their own names [6]. As a result, minority rights provide equality before the law, protection against identity-based violence, nondiscrimination, political and public engagement, and chances for intrastate and international cooperation with other groups and organizations [7].

Despite taking into consideration the diverse aspirations and desires of various groups, the Indian constitution's framers were cautious to create a document for the country that met the need for national unity. They were dedicated to establishing a political and economical climate that supported the harmonious coexistence of the nation's many ethnicities and identities. The Constituent Assembly established an Advisory Committee on the subject of Fundamental Rights, which would encompass rights of minorities, under the direction of Sardar Patel in order to address the importance of granting safeguards and rights to minorities in India [5]. In a subsequent meeting, the Advisory Committee revised their minority recommendations to the Constituent Assembly, adding the following:

No legislation to the effect shall be formed, and minorities in every region of the nation shall have safeguarding with regard to their languages, cultures, and religious traditions.

No minority group (religious, linguistic, or ethnic) should face persecution and prejudice in admissions to educational institution supported by public money, nor may they be obligated to participate in a particular religious educational programmed.

All minorities (related to religion, language, or community identification) are allowed to establish and run educational institutions in any region of the nation.

The state shouldn't treat schools and colleges founded and run by minority groups differentially when granting funding. These recommendations were modified by the Constituent Assembly and eventually became articles 29 and 30 of the Indian Constitution [6][8]. In the end, minorities' constitutionally guaranteed rights may be categorized using the terms "common domain" and "separate domain." Every resident of our country is entitled to the rights deemed to be in the "common domain." Under the heading of "separate domain," the rights that are exclusive to minorities are meant to protect their identity [9].

### **Who are Counted in Minorities**

According to Article 27 of the International Covenant on Civil and Political Rights and relevant case law, a minority is "an ethnic, religious, or linguistic group, whose number is smaller than the remainder of the population." A minority is a group whose linguistic, ethnic, or cultural composition is different from that of the majority [7]. Second, a minority is a group that, in addition to trying to maintain that identity, often tries to give that identity more expression [10].

Although the Indian Constitution clearly outlines the rights afforded to minorities, it is unclear what exactly qualifies as a minority and which cultures or groups of people fall under this definition. The phrase "The Linguistic and Religious Minorities" is used. The rights of minorities are expressly stated in many parts of the Indian Constitution.

Following independence, India granted equal treatment to a number of faiths including Islam and Christianity. The majority religion in the region was Hinduism, with Buddhism, Sikhism, and Jainism being seen as subsets of Hinduism. According to its jurisdiction under Section 2(c) of the NCM Act, the Center notified five groups Christians, Parsis, Sikhs, Muslims, and Buddhists as "minority communities" on October 23, 1993. Jains were added to the list in January 2014 [1,2] [6-9]. Linguistic minority, on the other hand, present a more challenging issue and include a number of governmental bodies with ambiguous jurisdiction [11]. However, in addition to the test of calculating the number of members of the minority community in proportion to the state's population, the case was important for permitting the determination of minority status based on population size rather than other factors like underrepresentation or backwardness [12].

The Indian Supreme Court ruled in TMA PAI Foundation v. State of Karnataka that the concept of minorities must be associated with a particular state or union territory. It was claimed that linguistic and religious groupings were considered "minorities" under Article 30 of the Indian Constitution. Since the Indian States were reorganized along linguistic lines, the State would be used as the unit for determining the minority rather than the whole of India [13]. Therefore, from the State's point of view, the equitable treatment of linguistic and religious minorities under Article 30 must be considered. This means that Punjabis will still be considered minorities in the state of Andhra Pradesh even if

they are not minorities in the state of Punjab but are at the national level. Despite being the majority, Hindus are a demographic minority in Punjab [13].

It was noteworthy that this precedent was established at a time when education was a state subject. This changed when the Indian Constitution's 42nd Amendment Act of 1976 included education to the concurrent list. If language and religion are the axes utilized to define a person's position as a minority, then several peculiar nuances are evident from SC jurisprudence [14].

#### **Article 25**

The right to freedom of religion and conscience is guaranteed under Article 25 of the Constitution. As long as it doesn't conflict with public morality, health, or safety, or any of the other provisions in this article, it declares that everyone has an equal right to religious freedom, which includes the freedom to declare, practice, and propagate their faith.

#### **Article 30**

Regardless of whether they are based on language or religion, all minorities shall have the freedom to establish and manage the educational institutions of their choice, according to Article 30(1).

Regardless of whether the exclusion is due to language or religion, the State is not allowed to deny aid to any educational institution because it is operated by a minority group, as stated in Article 30(2) [6][7].

#### **Educational Institutions for Minorities**

Article 30(1) includes the National Commission for Minority Educational Institutions Act, which protects the right to education of minorities. With the exception of upholding educational quality by defining basic criteria for instructors and students, the Act shields minority educational institutions from government control [14]. The administration or university has little influence over how students are accepted to unaided schools if the admissions procedure is open and merit-based. Nonetheless, the law mandates that a certain number of non-minority students be admitted to aided institutions. A minority institution may provide universal secular education in addition to instruction in the minority religion, language, or culture [15].

#### **Various Other Articles in the Indian Constitution**

The Indian Constitution contains several other sections that either directly or indirectly address the rights and privileges of minorities in India, in addition to the previously mentioned guarantees and provisions found in the Fundamental Rights, the Preamble, and the Directive Principles of State Policy [16]. Here are several examples:

Article 347 discusses an unique provision that gives the President the authority to formally recognize a language that is spoken by a significant portion of the people. This might serve as a defense for minority languages.

The special provisions of Articles 331, 333, 334, 336, and 337 "guarantee the representation of Anglo- Indians in Union and State legislatures through nominations, if necessary, special provision for the community in certain services, and special provision with respect to educational grants for their benefit."

According to Article 350(B), "whose job shall be to inquire into all topics relevant to the protections established for linguistic minorities under this Constitution and report to the President concerning such subjects," the President may designate a "Special Officer for linguistic minorities."

## **II. DISCUSSION**

Despite India's pride in being a secular, democratic nation, anti-minority prejudice is fostered by many constitutional provisions and laws, such as those that forbid conversion and protect cows. Communism is growing when lynch mobs are utilized to terrorize and divide the working class and other disadvantaged segments of society for political ends. The Muslim and Christian minorities in India have been the subject of hate politics for a long time [17]. Though violence against these groups has existed since the founding of the Indian nation, the trajectory of all these recent incidents shows that the political balancing act between India's commitment to communities and its promise of equal citizenship, which worked well in the early years of independence, is now turning out to be untenable in the long run [18].

Following the reelection of a right-wing government, India's religious freedom status rapidly deteriorated, with assaults on religious minorities increasing in frequency. In October 2015, four Muslim men were killed by Hindu vigilante groups in different locations around the country on suspicion of killing or stealing cows for meat [18]. The acts of violence were carried out by violent Right-wing Hindu groups that took it upon themselves to protect cows and ban the consumption of beef because they were seen by Hindus as intimidating [19].

There have been reports of similar violent incidents against the Christian minority in India. Attacks on churches in 2015 stoked worries about growing Hindu nationalism in many Indian states under the BJP government. There have been reports of about 85 such incidents in 20 Indian states. These terrible atrocities claimed the lives of more than 8,000 Christians [18–20]. Using its expanded legislative majority, the national government enacted measures in May 2019 that infringed on religious freedom, particularly for Muslims. Violence against minorities and hate speech were encouraged by the national authorities.

The rights of certain religious minorities today are in jeopardy if the "new republic" is really developing. Modi's interpretation of the constitution is distinct from that of the BJP and the Sangh Parivar, which is undermining minority rights like the freedom to follow personal law and practice one's religion. In reaction to attacks on Christian minority, Modi suddenly declared the constitution to be his "holy book" [21]. The existing state of affairs must be thoroughly evaluated in order to provide minorities in multicultural nations their perspective and involvement in democratic politics [22]. Since the truth can only be found via cross-cultural dialogue, democracy is significant not only for the purpose of free speech and other things but also because its primary objective is to continuously promote creative interaction between other points of view and sensibilities.

### III. CONCLUSION

The Indian Constitution has a number of provisions and clauses that safeguard the rights and advantages of minorities. One of the best examples of how to adapt to the many needs of individuals with different identities and cultures is the Indian Constitution. Minorities can safeguard their rights under a number of articles in the Indian Constitution. These consist of the tenets expressed in the Constitution's "preamble," "Fundamental Rights," and "Directive Principles of State Policy," in addition to a number of other articles and clauses. As a result, it is clear that the Indian Constitution is essential to protecting the rights and benefits of India's minorities.

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