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Introduction

The term "minority" is not explicitly defined in the Constitution. In the context of Articles 29 and 30, whether a section of citizens constitutes a "minority" within a State is determined by considering the entire population of that State. A community is deemed a minority if its numerical strength is less than 50% of the State's total population. However, minority status cannot be determined with respect to the entire country's population.

Both linguistic and religious minorities are determined based on the demographics of the State. The question of whether a sect or denomination of a religion can claim minority status, even if the followers of that religion are in the majority, remains unresolved **[T.M.A. Pai Foundation v State of Karnataka (2002) 8 SCC 481].** The Supreme Court, in **PA. Inamdar v State of Maharashtra (AIR 2005 SC 3226),** reiterated that minority status, whether linguistic or religious, is assessed at the State level.

In **Bal Patil v Union of India (AIR 2005 SC 3172),** the Supreme Court examined the concept of "minorities" and emphasised that while not specifically defined, minorities refer to identifiable groups deserving protection from potential deprivation of their religious, cultural, and educational rights by the majority community. The constitutional goal is to foster social conditions where such protection is unnecessary.

In **Frank Anthony Public School Employees Association v UOI (AIR 1987 SC 311)**, the Supreme Court emphasised that special rights for minorities aim to provide them with a sense of security and confidence, not privilege or preferential treatment.

Article 30 was enacted to safeguard minorities against legislative intrusion on their rights, ensuring their ability to preserve their culture and language. While equality between majority and minority groups is emphasised, there is a growing sentiment that minorities are afforded more rights than the majority.

Dr. Ambedkar, in the Constituent Assembly, emphasised the need to recognize the existence of minorities while seeking a solution that fosters eventual integration of majorities and minorities. Similarly, Pandit Nehru advocated against perpetuating barriers that isolate minorities, emphasising the importance of fostering unity among different groups within the country.

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ARTICLE 29: Protection of Interests of Minorities

Article 29(1) ensures that any section of citizens residing in India, or any part thereof, possessing a distinct language, script, or culture, has the right to conserve it. This provision aims to safeguard the cultural rights of minorities. Educational institutions play a crucial role in conserving language, script, and culture, implying the right to establish and maintain such institutions as explicitly conferred by Article 30(1). However, this right is subject to the limitations outlined in Article 29(2).

The right to conserve citizens' language includes the right to advocate for its protection (Jagdev Singh v Pratap Singh MP 1965 SC 183). Unlike Article 19(1), Article 29(1) is not subject to reasonable restrictions.

Article 15, similar to Article 29(2), prohibits discrimination based on religion, etc. However, their scopes differ:

- Article 15 protects citizens from State discrimination, while Article 29(2) safeguards against denial of admission to certain educational institutions.
- Article 15 protects against discrimination generally, whereas Article 29(2) addresses a specific type of wrongdoing: denial of admission based on particular criteria.
- The prohibited grounds of discrimination also vary between the two articles. 'Place of birth' and 'sex' are absent in Article 29(2), while 'language' is not mentioned in Article 15. Consequently, under Article 29(2), a female student may be denied admission to educational institutions.

Article 29(2) applies universally to all citizens, regardless of majority or minority status. Hence, if a minority-run school receives state aid, it cannot reject admission to boys from other communities, nor can the State compel such schools to limit admissions to their own community. However, Article 29(2) does not prevent the State from reserving seats for backward classes under Article 15.

In **State of Bombay v Bombay Educational Society (MP 1954 SC 561)**, the Court invalidated a Bombay Government order prohibiting admission to schools with English as the medium of instruction based solely on language grounds.

Article 29(2) does not apply if a person is denied admission due to lack of qualifications, failure to meet required marks, or failure to apply within the stipulated time frame.

ARTICLE 30: Right of Minorities to Establish and Administer Educational Institutions

Article 30(1) grants all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice. This clause empowers minorities to determine the type of institutions they wish to establish. Additionally, the State cannot discriminate against any educational institution managed by a minority when granting aid.

The right conferred by Article 30(1) encompasses both religious and linguistic minorities, allowing them the autonomy to establish and effectively manage educational institutions. While the State retains the authority to determine the language medium of education, it cannot infringe upon the minorities' right to provide education in their language **(D.A. V. College v State of Punjab AIR 1971 SC 1731).**

However, Article 29 or 30 is not violated if the State mandates the use of the mother tongue as the medium of instruction at the primary level and implements a three-language formula at higher stages **[English Medium Parents Asscn. v State of Karnataka (1994) 1 SCC 550]**. Similarly, the State can legislate to require minorities to teach the State language, a measure deemed reasonable and not violative of minority rights **[Usha Mehta v State of Maharashtra (2004) 6 SCC 264].**

The term "establish" implies the right to bring into existence, while "administer" refers to the effective management of an institution. However, an educational institution not established by a religious minority cannot claim the right to administer it. For instance, in Naresh Agarwal v Bharat (2006), the Allahabad High Court ruled that Aligarh Muslim University (AMU) was not a minority institution as it was established by an Act of Parliament, not by any Muslim **(following Aziz Basha v UOI (AIR 1968 SC 662)).**

Moreover, institutions established by minorities need not exclusively benefit the minority community; they can admit individuals from non-minority communities as well. This provision ensures inclusivity and diversity within minority-run educational institutions.

Relationship Between Article 29(1) and Article 30(1)

In the case of **St. Xavier's College v State of Gujarat (AIR 1974 SC 1389)**, the Supreme Court discussed the scope of Article 30(1) and its relationship with Article 29(1). The State argued that the protection provided to minorities under Article 30(1) did not apply to St. Xavier's College because it was not founded for the preservation of language, script, or culture as specified in Article 29(1).

The Court held that Article 30(1) encompasses institutions imparting general secular education, aiming to equip children of minorities for the world. It emphasised that Articles 29 and 30 establish distinct rights, although there may be instances where these rights intersect. The Court highlighted several differences between the two articles:

1. Article 29(1) grants rights to any section of citizens, including the majority, while Article 30(1) confers rights specifically on religious or linguistic minorities.
2. Article 29(1) focuses on language, script, or culture conservation, while Article 30(1) addresses minorities based on language or religion.
3. Article 29(1) concerns the right to conserve language, etc., whereas Article 30(1) pertains to the establishment and administration of educational institutions.
4. Article 29(1) does not directly address education, whereas Article 30(1) specifically deals with educational institution establishment and administration.



Hence, the conservation of language, script, or culture under Article 29(1) may occur independently of educational institutions, and the establishment and administration of educational institutions under Article 30(1) may not necessarily be motivated by a desire to conserve language, script, or culture. Additionally, Article 30(1) does not mandate that religious minorities establish institutions solely for teaching religion or that linguistic minorities establish institutions exclusively for teaching their language.

Power of Government to Regulate Minority-Run Institutions

The right bestowed by Article 30(1) of the Constitution is not absolute, allowing the State to intervene for the maintenance of educational standards. This intervention can include ensuring the security and protection of teachers and staff by stipulating terms and conditions of service. Regulations may be enacted in the interest of discipline, health, sanitation, morality, public order, among other factors. Even social security measures like the Industrial Disputes Act are applicable to minority institutions, ensuring welfare for all.

An institution established for commercial purposes cannot claim protection under Article 30(1). Regulatory measures should not infringe upon the right of administration, as minorities retain the right to select members of governing bodies and faculty. However, imposed regulations must be reasonable and aimed at preserving the educational character of the institution.

In the case of St. Xavier's College v State of Gujarat, certain government provisions displaced the management committee of the college, impinging upon the minority's right to administer educational institutions. The right to administer encompasses selecting governing bodies and faculty, admitting students, and managing assets for the institution's benefit. While regulatory measures are necessary, they should not undermine the autonomy needed for effective administration.

The right to administer is not absolute and must be balanced with responsibilities for good administration. Regulatory measures should not restrict administration but facilitate it, preserving the autonomy necessary for effective institutional management. The displacement of management by external agencies undermines this autonomy, hindering effective administration.

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