

EDUCATIONAL RIGHTS OF MINORITIES UNDER ARTICLE 30: A CRITICAL APPRAISAL

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Abstract

India is a diverse country where people are divided on the basis of race, religion, caste, culture, and socio-economic factors. The preamble to the Indian Constitution guarantees equality, which cannot be provided without protecting or safeguarding the rights of minorities. This paper focuses on the meaning of “minority” and the classification of minorities in India and examines whether Article 30 of the Indian Constitution prevents the state from imposing reasonable restrictions to make the administration of minority institutions transparent. It also examines the critical appraisal of Article 30, whether it is fulfilling the real idea as laid down by the framers, or whether it has been deviated from its real objective and affects the rights of the majority. Finally, it attempts to provide a conclusion and suggestions for balancing the educational rights of minorities and majorities in India.

Keywords: *Constitution of India, Minorities Rights, Article 30, Education.*

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INTRODUCTION

India is a diverse country where people are divided on the basis of race, religion, caste, culture, and socio-economic factors. The preamble of the Indian Constitution guarantees equality, which is a fundamental feature of the constitution, as well as the provisions of Articles 14-18. Equality cannot be provided without protecting or safeguarding the rights of minorities under Article 30 of the Indian Constitution, which provides for the preservation of minorities' rights.

Concept of Minority

The word “minority” has its origins in the Latin word “minor,” which means smaller. A minority or minority group is a population or group having unique social, religious, racial, ethnic, or other characteristics that are different from those of a majority group.

International Law

Article 1 of the United Nations minority declaration defines minorities as groups based on cultural, ethnic, religious, and linguistic identity and provides a duty on states to protect their existence. Despite the fact that there are no internationally agreed-upon groups that constitute minorities, according to international law or United Nations declarations on minorities. Being a minority is a question of fact, showing that the definition of minorities must have objective as well as subjective factors. The reason behind not having a common definition of minorities is the various situations in which minorities live. Some live in well-defined areas and are

eliminated from the majority population, whereas others are excreted throughout the state.¹

The expression “minorities,” as used in the United Nations human rights system, refers to religious, ethnic, and linguistic minorities. Different states have different minority groups within their state territories designated by their own religious, linguistic, or ethnic identity that is different from that of the majority population.

Recently, in the year 2019, the United Nations General Assembly reviewed the approaches and jurisprudence on the concept of minorities in order to provide clarity for a better understanding of the term and for their stakeholders, with the goal of upholding minorities' human rights.

United Nations General Assembly

An ethnic, religious, and linguistic minority is any group of persons that constitutes less than half of the population in the entire territory of a state and whose members share common characteristics of culture, religion, or language, or a combination of any of these. A person can freely belong to an ethnic, religious, or linguistic minority without any requirement of citizenship, residence, official recognition, or any other status.²

Constitution of India

¹ UNHR, “*Minority Rights: International Standard and Guidance for Implementation*” (HR/PUB/10/3), para: 568

² “*Concept of minority: Mandate definition*”, Available at: <https://www.ohchr.org/en/special-procedures/sr-minority-issues/concept-minority-mandate-definition>

The term “minorities” is not clarified in the Indian Constitution. One can try to derive certain ideas regarding minorities from the various articles in the Indian Constitution and reports from the government. Article 29 (1) declares that anyone with “a distinct language, script, or culture of its own has the right to conserve it.”³

From the words of this very article, we can understand that groups or communities having distinct language, script or culture fall under Minority Communities. But in many cases, such as *Bal Patil v. Union of India*⁴ and the *Islamic Academy of Education v. State of Karnataka*,⁵ the apex court has laid down other factors to decide whether a community is Minority or not. Such as economic welfare.

People of the Muslim, Sikh, Christian, Buddhist, Parsi, and Jain faiths have minority community status in India, according to the Indian Gazette of January 27, 2014. Section 2 clause (c) of the National Commission on Minorities Act declares six communities as “minority communities.” They are as follows:⁶

- 1) Muslims, 2) Christians, 3) Buddhists, 4) Sikhs, 5) Jains; and 6) Zoroastrians

In general, the term “minority” or “minority group” in law usually refers to a group of people who are subjected to oppression and discrimination by those who are in the majority or have more power in society.

³ Constitution of India, Art. 29(1)

⁴ (2005) 9 SCC 352

⁵ (2004) 13 SCC 3

⁶ Shikha Goyal, ‘Minorities Rights in India’, Jagran Josh, 18 December, 2020; Available at: <https://www.jagranjosh.com/general-knowledge/minorities-right-day-in-india-1576589222-1>

Classification Of Minority Under Article 30

Minority can be based on ethnicity (ethnic Minority), Race (Racial Minority), Religion (Religious minority), sexual orientation (Sexual minority) or Linguistic Minority.

The minorities which are covered under Article 30 of the constitution of India are:

- (a) Religious Minority and (b) Linguistic minorities.

Religious Minority

The Union Government of India has designated these six communities as minorities in India. They are - Muslims, Christians, Sikhs, Jains, and Zoroastrian. India is a secular country. In India there are many religious groups some of these are greater in number and in dominant position hence considered as majority group.⁷

For example, In India Hindus are at dominant position and greater in population thus considered as majority group and Muslim Christians Sikh etc. are lesser in terms of population and hence considered as minority group. India is a diverse country having multi religion it is very important for the government to safeguard and protect the religious rights of minorities.

In 1992 the National commission for minorities was established by the central government to protect the religious rites and other rights of minorities in India.

⁷ Ibid.

Linguistic Minority

Linguistic minorities are the group of people having a different language or mother tongue from those of the majority group the Indian Constitution protects and safeguard the rights of linguistic minorities. In the original constitution of India there was no provision with respect to the special officer for linguistic minorities. Article 350 was inserted in the Constitution by the seventh constitutional amendment act 1956.

Article 350B provides that the President of India shall appoint a special officer for linguistic minorities for the purpose of investigation in matters relating to the safeguard provided for linguistic minorities

Article 350A of the Constitution of India imposes an obligation on the state to provide adequate facilities for instruction in the mother language of children belonging to the linguistic minority community at primary level of education.⁸

No State Wise Minority Classification

The Supreme Court rejected the PIL filed by BJP leader and lawyer Ashwani Kumar Upadhyay seeking from the court to lay down guidelines to Accord minority status based on State wise population of a community. The supreme court held that religion must be considered Pan India. The court said that religions don't have state borders. The petitioner argues that in several eastern states Hindus are in minority and Hindus community is deprived of benefit.

Currently in India Linguistic minorities were identified on a State wise basis

⁸ Constitution of India, Arts. 350, 350A & 350B

and linguistic minorities were determined by the state government. On the other hand, religious minorities are determined by the central government. However, the supreme court held that states are created based on languages. Languages are restricted State wise, but religion cannot be restricted State wise.⁹

The term 'Minority' under Article 30 of the constitution of India, must be one based on religion or language i.e., religious minority and Linguistic minority. The Supreme Court of India, by judicial interpretation, also tries to resolve the dispute of the word Minority since it is not defined in the constitution of India for the purpose of Article -30.

In *Re Kerala education Bill Case*, The Supreme Court held that minority means a community or group whose population is less than 50% of the total state population¹⁰.

In *A.M Patroni v. Kesavan*, The Kerala High Court held that the word minority is not defined in the constitution so any community religious and linguistic which is less than 50% of the state population is entitled to fundamental rights guaranteed under article 30 of the Indian Constitution.¹¹

In *St. Stephen's College v. University of Delhi*, The Apex court has held that minorities under Article 30 consist of those who form a distinct or

⁹ Ashish Tripathi, *Supreme court notice to center on plea against law on recognizing minorities to run educational institutions*, Deccan herald, 28 August 2020, Available at: <https://www.deccanherald.com/national/sc-notice-to-centre-on-plea-against-law-on-recognising-minorities-to-run-educational-institutions-879181.html>

¹⁰ *Re Kerala Education Bill*, AIR 1958 SC 956

¹¹ *Aldo Maria Patroni v. E.C Kesavan*, AIR 1965, Ker

identifiable group of citizens of India.¹²

Article 30 of The Constitution of India, 1950 and its Interpretation

Article -30 of Indian constitution has two clauses. Article-30(1), guarantees to all linguistic and religious minorities, the right to establish and the right to administer educational institutions of their own choice, the right guaranteed under Article 30 (1) is provided only to two types of minorities namely Religious or linguistic.¹³

The above-mentioned article contains the words “establish” and “administer”. The word establish means the right to bring into existence and the right to administer an institution means the right to manage and control the affairs of the institution. This indicates that the management of the minority educational institutions must be free of unnecessary control and restrictions over such institutions by the state. The purpose behind establishing such institutions is to protect the religion, culture, or language of minorities and for providing general education to their children in their own language.

Article 30 (2) prohibits the state from discriminating in the matter of providing it to any educational institution on the ground that the institution is managed and done by religious or linguistic minorities.¹⁴

The above-mentioned article restricts denial from providing aid to minorities institutions. If any state makes such discrimination in the matter of providing aid to any educational institution on the grounds that such

¹² *St. Stephen's college v. University of Delhi*, 1992, 1 SSC 558

¹³ Constitution of India, Art. 30 (1)

¹⁴ Constitution of India, Art. 30 (2)

institution is managed and run by a minority will be considered as violation of Article 30(2). Article 30 applies to both citizens and non-citizens.

The Constitution 44th Amendment Act, 1978

Right to property as fundamental right under Article 19(1) (f) and 31 of the Indian Constitution was abolished by constitutional 44th amendment act, 1978. In consequence, Article 19 (1) (f) and 31 from part III of the Constitution was omitted. However, the legislature has taken due care that the elimination of the right to property from the list of fundamental rights would not averse the right of minorities to establish and minister educational institutions of their choice. To ensure this clause 1A was added in article 30 of the Indian Constitution by the same amendment, i.e., 44th Amendment Act, 1978. clause 1A of article 30 of Indian constitution declares that, in formulating any law for the compulsory acquisition of any property which belongs to education institution of minority mentioned under clause 1A of article 30, the state shall ensure that the amount prescribed under such law for the acquisition of any such property is such as would not abrogate or infringed the right guaranteed under clause (1) of article 30.¹⁵

Relationship Between Article - 29 (1) And Article - 30(1)

In the case of *St. Xavier's College v. State of Gujarat*, The Apex court has elaborately examined the inter-relations of Article 29(1) and Article 30 (1). In this case, the petitioner who was running St. Xavier's College of arts and commerce in Ahmedabad challenge the section 33A, 40, 41, 51A, 52A of the Gujarat University Act, 1949 as amended by Act of 1973. The state

¹⁵ Constitution of India, Art.19(1)(f), 30(1) & 30(1A)

argued that the protection to minorities was not provided to this college under Article 30(!), the reason behind the same is that the college was not founded for the protection of language, script or culture as provided in article 29 of the constitution the court after examining its earlier decisions in *Re Kerala Education Bill*¹⁶, *W. Proort v. State of Bihar*¹⁷, *Siddhraj Bhai v. State of Gujarat*¹⁸, held the institutions communicating general secular education were covered under Article 30(1). The motive behind Article 30(1) is to provide education to children of minorities in such a way that they go out in the world fully prepared. It Will not be true to read Article 30(1) as the right of minorities to establish and administer educational institutions of their choice only in cases related with language, script and culture of minorities. Article 29(1) and 30(1) should be taken as two different Rights.¹⁹

Article 29(1) is general protection provided to all citizens to preserve their language, script, or culture whereas Article 30(1) declares a special right to minorities to establish and administer educational institutions of their choice.

Mentioned below are the following distinctions between Article 29(1) and Article 30(1)

Article 29(1) guarantees the right to citizens of any section which includes majority sections also whereas Article 30(1) guarantees the right to citizens who are minorities based on language or religion.

Article 29(1) is related only to three subjects which are language, culture, or script whereas Article 30(1) deals with minorities based on language or

¹⁶ AIR 1958 SC 956

¹⁷ AIR 1968 SC 475

¹⁸ AIR 1963 SC 540

¹⁹ *St. Xavier's College v. State of Gujarat*, AIR 1974 SC 1389

religion.

Article 29(1) is not restricted to education as such whereas Article 30(1) deals only with the establishment and administration of educational institutions.

Article 29(1) is related to the right to conserve script, language, or culture whereas Article 30(1) guarantees the right to establish and administer educational institutions of their choice by minorities.

Hence, protection of language, script or culture under Article 29(1) may be by any means which are wholly not connected with educational institutions and likewise establishment and administration of educational institutions by minority may be not connected with any aim to protect language script and culture.

DOES ARTICLE 30 OF THE INDIAN CONSTITUTION PREVENT THE STATE FROM IMPOSING REASONABLE RESTRICTION TO MAKE ADMINISTRATION OF MINORITY INSTITUTION TRANSPARENT?

The Hon'ble Court in the Matter of *Christian Medical College Vellore Association v. Union of India & Others*,²⁰ delivered by three judge bench of supreme Court comprising Mr. justice Arun Mishra, Mr. justice Vineet Saran and Mr. justice M R Shah held that the provisions of Act and Regulations cannot be declared to be ultra-virus or derogation with the right conferred by constitution of India under Article 30(1) read with article 19 (1)(g), 14 ,25, 26 and 29(1). The petitioner in this case has challenged four notifications first dated 21-12-2010 notified by the medical council of India and the other

²⁰ (2020) 8 SCC 705

dated 31.05.2012 notified by Dental council of India. The medical council of India amended the regulation on graduate medical education amendment regulation 2010 to revise the postgraduate medical Examination regulation, 2000. Other side the Dental council of India via notification dated 31.05.2012 regarding admission in BDS and MDS courses. While exercising power under section 33 of Indian Medical Council Act, 1956 the medical council of India modified clause 5 of chapter II of the regulation. Class 5 under chapter II of the regulation laid down the procedure for selection of medical aspirants to MBBS courses. The Supreme Court of India while disposing the matter held, the regulatory measures under the act and the regulation cannot be deemed to be against the interest of an aided minority institution and such reasonable measures can be created. Moreover, these regulatory measures do not affect the fundamental rights of institutions under article 14, 19(1)(g), 25 and 30(1) of the constitution. For the very existence of all such institutions whether they are run by minority or majority, the institutions are bound to the provisions which lay down the reasonable conditions of recognition and affiliation. Without following such measures institutions cannot exist and convey education the conditions are reasonable and cannot be declared to be in derogation with any of the constitutional rights of minority institutions. The centralized entrance examination cannot be declared to be unreasonable as the terms and conditions for recognition and affiliation for professional medical colleges and such examination. If examinations like National eligibility cum entrance test are not permitted to conduct aspirant of medical profession who is good at studies and is keen to join the medical profession will have to appear at different examination in different state conducted by different medical colleges and if he fails to get admission in any one college then that candidate will be deprived from the chance to get to get admission into

another college whereas National eligibility cum entrance test will facilitate all students opportunities to get admission on the basis of merit list in different colleges. Hence, the right guaranteed under article 19(1)(g) and 30(1) of the Constitution does not prohibit the measures of securing transparency and recognition of merits in the matter of admissions; it is the authority of the state to regulate qualification and courses of study for securing education standards and imposing reasonable restrictions in the national and public interest.

Consequently, it was said by the Supreme Court of India that there is no infringement of right of the unaided or aided minority to establish and administration institutions under Article 19(1)(g) and 30(1) of the Indian Constitution by introducing the uniform National level entrance examination that is need for admission to professional courses of MBBS and BDS and MDS.²¹

CRITICAL APPRAISAL OF ARTICLE 30

The constitution of India advocates The provisions of the Indian Constitution guarantee everyone equality before the law and prohibit discrimination or inequality. Despite that, some laws apply unequally. The right to manage educational institutions is an instance of it. As we know, every coin has two faces: merits and demerits; similarly, Article 30 also has advantages and disadvantages. It is true that on one side, it provides advantages to minority communities in the country, but on the other side, it has some disadvantages also. One of the major drawbacks is the government's control over granting a minority status certificate. The minority institution has to request the government for a grant of application

²¹ *Christian Medical College v. Union of India*, (2014) 2 SCC 393

or incorporation of minority character; if the government refuses to provide such status, then NCMEI comes into the picture, and three members of the committee of such a commission have to decide the matter regarding the status of the minority institution and pass a decision, which is final and binding. The problem in this whole process is that, ironically, the three members who decide the matter belong to the minority community itself. It is not wrong to say that they are judges in their own case. On the one hand, Article 30 guarantees certain rights to minorities to establish and administer educational institutions of their choice, but on the other, it affects the rights of students studying there by not providing them with transparent administration.

Now the question comes to mind: does the majority community have similar rights as minorities have under Article 30(1)? On numerous occasions, the Supreme Court has ruled that the Hindu or other majority shall have a similar right under Article 19(1)(g), which grants every citizen the right to work, etc.

However, if we see the source of these two rights, Article 30(1) is free from any reasonable restrictions and free from exceptions, whereas Article 19(1)(g) has reasonable restrictions mentioned at Article 19(6) of the Indian Constitution, and there is no special provision for the conservation of languages, cultures, and religions of the majority community in the Indian Constitution.

There is a village in Meghalaya named Kong Thong, also called the “whistling village of Meghalaya” by many people. In Kong Thong, which is a tiny village of 567 people, there is a special culture. Here, the people call one another by a name instead of their names. In Kong thong, every mother

prepares a special tune for her baby, and they call him by this tune instead of his name; however, due to technological advancement, the culture of Kong thong is drastically changing day by day, so there is a need for the conservation of language, script, and the majority culture as well.

A Rajya Sabha MP from Bihar named Rakesh Sinha once raised this issue in Rajya Sabha, but unfortunately, till now, no progress has been witnessed in this field.

When the UPA government was in power, they provided direct and instant incorporation to some students at Central University as minorities. There is very little control over minority educational institutions in terms of regulation by the government; the minorities have full control over their institutions. However, if any malpractices occur in that type of institution, the government has the authority to take action despite such institutions. In practice, it is often witnessed.²²

Another example of inequality is that, according to the RTE Act of 2009, minority institutions are exempt from the requirement of reserving 25% of their seats for the poor. The responsibility for educating the children of economically disadvantaged sections is solely placed on the shoulders of the majority educational institutions. Section 13 of the RTE Act 2009 says that no school or person may collect any capitation fee while admitting a child and prohibits screening of that child, his guardian, or his or her parents while admitting such a child into the institution.²³

²² Sakshi Vaishnav, “*Educational rights of minority -a prime source of inequality*” Available at: https://legalserviceindia.com/legal/all_articles-505-sakshi-vaishnav-.html

²³ The RTE Act 2009, Sec. 13

It means that the institution cannot screen to determine whether the child will fit into such a school or not. It does not mean that the non-minority institution does not want to provide 25% of its seats to two students, but the problem is that they don't match the atmosphere of such a school and hence create difficulties in managing the institution, whereas minority institutions have complete freedom in selecting students.

The supreme court has mentioned in several judgements that a minority institution may make their own rules regarding admission, but those rules must be fair, transparent, and non-exploitative, and as far as higher education is concerned, admission will be based on merit.

The purpose behind introducing Article 30 under Part III of the Constitution of India is to make sure the minority should be treated equally, but now the situation is just the opposite, and this article is violating the rights of the majority guaranteed by Part III of the Constitution, or, it's better to say, this creates an imbalance between the majority and minority communities.

The present scenario of Article 30 is disappointing as it loses its aim. The aim of this article is to encourage minorities, but now the government's behaviour towards minorities is not encouraging but rather tolerating.

CONCLUSION

India is a land of diversity. As the world's largest democracy, India faces numerous challenges in balancing the rights of the majority and minority groups. Since the constitution of India guarantees equality, which is mentioned under Part III of the constitution, Equality cannot be provided

in its true sense without protecting the rights and interests of minorities; hence, the constitution's drafters drafted Articles 30 and 29 to protect and safeguard the rights of minorities. Article 29 guarantees all citizens the right to protect their language, culture, and script, whereas Article 30 guarantees minority groups the right to establish and manage educational institutions of their choice. The main objective behind introducing Article 30 is to ensure that minorities are not discriminated against or denied equal treatment. Article 30(1) provides rights to minorities based on religion or language to establish and administer institutions of their choice, but the term “minority” is not defined either under the constitution or any other act for the purpose of Article 30, but one must be a religious minority or a linguistic minority. The linguistic minority is determined in relation to the states in which the educational institution is sought to be established. The view behind this is that the states are formed based on languages, and the supreme court in its several decisions held that the religious minority will be determined based on Pan India because religion has no boundaries. The term “establish and administer” encompasses several rights, including the right to admit students, the right to establish a reasonable fee structure, the right to form a governing body, the right to appoint a staff, and the right to act if an employee fails to perform his or her duties.

Previously, there was a conflict regarding the regulation of a minority institution; there was a dispute over whether the state could make regulations to control a minority education institution or not, but now there are several landmark Supreme Court judgements in which the court has held that rights under Article 30(1) of a minority-aided institution are not an absolute right and that the government may regulate the procedure for admission and the selection of staff, but that repression of repression is

prohibited. A minority institution may admit students from other communities along with a minority community, and it will not affect the status of such an institution; however, the court held that a minority educational institution may have its own procedure and method of admission. But that must be fair, transparent, and non-exploitative.

But with the passage of time, Article 30 deviates from its path. The aim that article 30(1) wants to achieve is to protect the rights of minorities to establish and administer educational institutions of their choice, but if we look at the current scenario, article 30 has lost its objective. Although the government has very little control over minority educational institutions, whatever control the government has, they don't want to exercise it in a proper way. The current scenario of Article 30 is very disappointing, as it only supports the tolerating behaviour of the government towards minority educational institutions rather than an encouraging one. The government's control over minority educational institutions is much less than that of non-minority educational institutions.

The main reason behind introducing Article 30 is to provide equal opportunity to minorities to impart knowledge to people in their community so that they will not trail in society because of the simple fact that they are fewer in number. But now a few minority institutions are using it as a weapon for their own profit, and commercialization of education is going on in the name of the rights of minorities to establish and administer educational institutions guaranteed under Article 30(1). For instance, the Ryan International Group of Institutions, founded in 1976 by Dr. A. F. Pinto, has over 130 institutions today in India and abroad. There are several issues that New India has witnessed regarding minority educational

institutions, which have turned Article 30 into a source of inequality and discrimination against non-minority communities. Even if we assume that Article 30 (1) benefits the Minority community, why do they require this protection after 71 years of independence? The harsh reality is that it has failed to truly uplift the minority; rather, a small number of people in the minority community are using it to run their businesses and make unnecessary profits. The government is not taking any initiative for political reasons, but the poor sections of society must suffer because other sections of society, who are affluent or have resources, admit their children into a good school or college, and the poor, who may belong to a minority community, must suffer because minority educational institutions are misused and administered.²⁴

SUGGESTIONS

Article 30 of the Indian Constitution was introduced in 1950, and since then, almost 71 years have passed, but the situation of the minority community is almost the same as far as education is concerned. Few gentry persons in such a minority community are practising their business in the name of rights guaranteed under Article 30, and education is commercialized. For instance, Ryan International Group Being part of a global search network, Christian schools receive foreign donations, for example. The Warangal catholic dioceses gave the Tirunelveli diocesan trust association Rs. 3.72 crores in 2015-2016 and Rs. 2.89 crores in 2016-2017.²⁵ No one at the time of drafting Article 30 of the Constitution imagined that

²⁴ Sanjeev Nayar and Hariprasad Nellitheertha, *"How Hindus rights have been seriously damaged by Article 30 and RTE Act"*, Swarajya 16 December 2019, Available at: <https://swarajyamag.com/ideas/how-hindu-rights-have-been-seriously-damaged-by-article-30-and-rte-act>

²⁵ Ibid.

this article would be misused in such a way and that there would be foreign donations and other resources available to minority educational institutions. Arihant Pawariya wrote about the admission process for the central entrance test for B.Ed. courses in Andhra Pradesh universities and colleges on sawarajyamag.com. The supreme court held that 67 out of 206 students in NCE, Nizamabad, and 19 out of 136 students in RC E, Kurnool, were admitted based on a baptism certificate, and that in most of these cases, the candidates declared themselves to be Christian after filing their application for the entrance test. Former Infosys director T.V. Mohandas Pai wrote in “The Economic Times” that two families whose children attend a school managed and run by a minority community and has a minority status raised their fees, and because they were unable to pay the increased fee, they converted because they were told that if they converted, their fee would be waived, and thus they converted.

Even if we presume that there will be a special law, does Article 30 make a difference? The literacy rate of Muslims continues to be hideously low. The reason behind this is a deficiency in government policies and provisions and a lack of secular education. Many developed countries in the world have rectified their wrongs, which were committed in the past, or, it's better to say, they have abolished obsolete rules that no longer work in this era.²⁶

The former President of India, Dr. S. Radhakrishnan, once said, “When India is said to be a secular state, we hold that no one religion should be given preferential status.” But today, the minority communities are given preferential status, so Article 30(1) comes up for consideration. Either it

²⁶ Aditya Sharma, “The *Anti-Secular nature of Article 30*”, eSamskriti, April 2014; Available at: <https://www.esamskriti.com/e/National-Affairs/For-The-Followers-Of-Dharma/The-Anti~Secular-Nature-of-Article-30-1.aspx>

should be deleted from the constitution permanently or amended in such a way that it will eliminate the inequality between the minority community and non-minority community, and hopefully the language in future versions of Article 30 will be like this.

“All citizens shall have right to establish and administer educational institution of their choice.” The Supreme Court in *Mudgal v. Union of India*²⁷ said that those who choose to reside in India after partition fully knew that the Indian leaders did not believe in the two-nation theory and there was to be only one nation - the Indian nation and no community could claim to remain separate entities based on religion.

²⁷ AIR 1995 SC 1531, para 35