

Rights of Religious Minority

Role	Name	Affiliation
Principal Investigator	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University
Content Reviewer	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University

Description of Module

Items	Description of Module
Subject Name	Law
Paper Name	Law and social transformation in India
Module Name /Title	Rights of Religious Minority
Module No.	X

Rights of Religious Minority:

1. **Minority:** The Term minority includes those non dominant groups in a population which possess religious, linguistic markedly different from those of the rest of the population. Such minorities should properly include a number of persons.

Ex: Harijans: The Backward classes are not minorities. The Harijans generally known as the scheduled castes are neither religious Minority nor a linguistic minority. The Harijans are part and parcel of Hindu Community.

2. **Religious Minority and linguistic minority:** A minority may be a religious minority community like the Muslim community, Christian community or Sikh community there may be a linguistic minority based on language of the members minority community such as Gujarati, Punjabi, Bengali, Telugu, Tamilians etc.
3. **Secular Ideals:** The **Security granted to religious minorities** in India and steps taken towards the protection of their rights considerably to the maintenance of our secular ideals.
4. **Religious Minorities:** The religious minorities have been assured by provisions in our constitution that their special interests, religious, cultural, educational and social are to be protected.
5. **Specific Rights of Minorities Under the Constitution (Articles 29,30):** The Right incorporated in Article 29 and 30 were distinguished by Singh C.J. of the Patna High court in Hari Manderji v Magadh University in the following words:

Scope of Article 29 and 30: The Right under Article 29 is a general protection given to minority to conserve its language, script or culture. While the right under article 30 is a special right (Empower) to the minority to establish educational institution of its choice.

Article 29 Protection of Interests of minorities: (i) Any Section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(ii) No citizen shall be denied admission into any educational institution maintained by the state of receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

6. **State of Madras v Champak Dorairajan (AIR 1951 SC 226):** The state Government passed an act mentioning the **Reservations according to the castes** into the admission of Medical and Engineering courses. It completely excluded **the Brahmins**. The Petitioners were Brahmins. They challenged the Validity of Act under Article 29(2). The Supreme Court struck down the Act holding that it was violating the provisions of Article 29(2).

7. **S.P.Mittal v Union of India (AIR 1983 SC1):** A society was founded International Cultural Township Aurobindo at Auroville Ashram near Pondicherry to propagate the Ideals (Moral) and Teach. The Government enquired into detail and found that the management of the society caused several atrocities and **illegal acts including sexual** and monetary issues. Thereafter the Central Government passed an Act Auroville (Emergency Provisions) Act 1980 and took over the Ashram. The management contended under Article 29 the Central Government had no authority to bring such Act.

The Supreme Court held that the act was not violative of the article 29 as the mismanagement was clear on the face of the record and further the Auroville or the Society were not religious values.

10 Rights of Minorities:

- i. The Minority people have the Right to protect their language, script and culture and to conserve the Same. (Article 29(1))
- ii. The Minority people have the right to admission into any educational institution maintained by the state or receiving aid out of State funds. (Article 29(2))
- iii. The Minorities have the Right to establish the educational institutions basing on religion or language of their choice. (article (30)(1)).
- iv. The Minorities have the right to administer the educational institutions basing on religion or language of their choice. (Article 30)(1)
- v. The Minorities have the right to get compensation for the compulsory acquisition of any property of an educational institution established by them. (article 30 (1A))
- vi. The Government shall not show any discrepancy in granting the aid to educational institutions established by minorities. Article 30(2).

8. **Article 30:(i)** Right of minorities to establish an Educational Institution of their choice. (ii) Right to administer the educational Institutions so established by them.
9. **Right to Administer:** The phrase “Right to administer” gives several meanings and rights i.e Management of the affairs of the institution; the Right to select and elect the managing body; the Right to choose the teachers; the Right to have their own medium of Instruction; the Right to use the property of the institution for its benefit.
10. **Regulations:** The Management of the Institutions for the welfare of the minorities should follow the Rules and Regulations formed and prepared by the States or Centre in this regard from time to time but those regulations must be reasonable.

Frank Anthony Public School Employees Association vs Union of India (1986)SCC707

Frank Anthony Public school was established by Christians. It is a Christian minority educational Institution. The Delhi School Education Act enacted by the State Government. In this Act the Salaries of the teaching and non-teaching staff of the recognized schools must not be less than the government schools but this condition was exempted in case of recognized minority Institutions. Basing upon section the management of Frank Anthony Public School was paying lesser wages to its staff. The staff formed an association and filed a writ petition contending that the Act was arbitrary and violative of Article 14. The Court held that teaching and non-teaching of Frank Anthony Public School are entitled to get the pay scale equal to the Government schools and recognized private schools.

11. Rev. Father W. Proost vs State of Bihar (AIR 1969 SC 465)

The Supreme Court in this case opined that “The Right to administer does not include the right to maladminister”. The Minority institutions cannot exploit their students, teachers and employees. The Universities and state with reference to matters like qualifications of teachers, courses, service conditions etc will be equally considered as other institutions.

12. D.A.V. College, Bhatinda vs State of Punjab (AIR 1971 SC 1731):

The Punjab University prescribed Punjabi as the sole and exclusive medium of instruction. Arya Samajists residents of Punjab objected that this condition affected their right under Article 30. The Supreme Court held that Arya Samajis who are religious and also a linguistic minority cannot be compulsory to learn Punjabi. The Supreme Court opined that Punjab University can prescribe Punjabi as a medium of Instruction but cannot prescribe it as an exclusive medium to teach in Punjabi or take examination in Punjabi.

13. St. Stephens College vs University of Delhi (AIR 1992 SC 1630)

St. Stephens College at Delhi affiliated to D.U..The Institution under minority institution giving priority to Christian students. For the academic 1980-81 invites applications from the students reserving 50% of the seats to the Christian students. The V.C of D.U intervened and issued a circular that admissions shall be made on merit basis depending upon the marks obtained by the students in Entrance Test.The management of Stephens college filed writ petition The supreme court admitted the writ petition and gave judgement infavour of Institution and directing the Vice-Chancellor not to interfere.