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**CONSTITUTIONAL JURISPRUDENCE ON HARMONISING
AUTONOMY AND INCLUSIVITY OF MINORITY RIGHTS: An
Analysis of the Supreme Court Verdict on AMU**

Priti Saxena & Tamesh Kumar Pandey

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CONSTITUTIONAL JURISPRUDENCE ON HARMONISING AUTONOMY AND INCLUSIVITY OF MINORITY RIGHTS: An Analysis of the Supreme Court Verdict on AMU

Priti Saxena & Tamesh Kumar Pandey***

[Abstract: India, as a land of diversity, includes wide range of community and philosophy. The constitution seeks to protect minorities' rights by providing specific protection under the constitutional order. Article 30 of the Indian Constitution entitles the religious and linguistic minorities' right to establish and administer educational institutions of their own choice, preserving their cultural and educational identity in a multicultural democracy. Adjudications by courts on the status of minority institutions have, at some instances, emphasised the autonomy and on other occasions the inclusivity or state's intervention has been justified. Through this case study, from the lens of Aligarh Muslim University, explores key judicial precedents, including *Azeez Basha v. Union of India* (1968) and the recent AMU judgment. It analyses the indicia laid down for determining the 'establishment' and 'administration' of minority institutions, highlighting the challenges of statutory amalgamation, regulatory lapse, and historical purpose. While the judiciary has made significant efforts in expounding the scope of article 30, we argue, that administrative mechanisms, such as a quasi-judicial body for adjudicating minority status, are now indispensable to be a foil for judicial efforts. This paper also examines contemporary jurisprudential concepts such as the 'Constitutional Symbiosis Model' and the 'Community Intent Test' to elucidate the interpretation of article 30 and its relationship with articles 14, 15, 19, 21A, 26, and 29. This paper mainly argues for the establishment of explicit administrative rules and the codification of minority rights, thereby offering a balanced stratagem that keeps intact the minority autonomy while encouraging inclusivity. Eventually, it also portrays minority institutions not as sequestered entities but as the crucial contributors to India's constitutional vision and upholding the basic preambular precepts of justice, liberty, equality, and fraternity.]

Keywords: Constitution, minority rights, educational institutions, constitutional symbiosis model, community intent test, autonomy, inclusivity, living law etc.

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I

Introduction

Rights are often understood as claims enforceable by law. However, a vital question that arises in the context is whether such claims are inherently subjective, varying with the stakeholders and the circumstances they involve? The answer, as history and context suggest, evolves with changing societal dynamics. In most instances such rights were often shaped by the persons who were more in number keeping in mind the interest of larger number. The utilitarian model, as propounded by Jeremy Bentham,¹ deals with the idea of ‘greatest happiness of the greatest number,’ inherently focusing on majority interests. However, this model often neglects the rights and interests of minorities, who may be numerically smaller but they are constitutionally and morally momentous.

The main issue with the concept of minority rights lies between the core question of balancing of the collective interest and the individual or community interest. There are again two points of views for such balance. Firstly, if we will follow the basic tenets of sociological school of jurisprudence then the collective interest will prevail over the individual interest or community interest. But on the other hand it is equally important to see the other side of the issue which deals with the idea of liberalism which remains highly critical regarding the utilitarian philosophy and often advocates through its proponents like John Stuart Mill for the protection of the interest and liberty of individual.² Ronald Dworkin contends that a serious commitment to rights precludes adherence to the utilitarian philosophy.³ He believes that an individual’s rights should be upheld, even if it compromises the public interest.

In this light we must also address upon the rights of the individuals which are less in number i.e. in minority. In the backdrop of article 30, this also presents a key question that whether the happiness of the majority should transcend the rights of minority communities to preserve their cultural and educational autonomy? The utilitarian model’s inability to incorporate minority protections emphasises its shortcomings in heterogeneous nations like India, where the Constitution seeks to balance majority rule with safeguards for diversity. We might infer to Roscoe Pound’s *social engineering* methodology to juxtapose public and private interests in a specific case by balancing the private interest as a form of social interest.⁴

¹ UTILITARIANISM available at: <https://www.utilitarianism.net/utilitarian-thinker/jeremy-bentham/> (last visited Dec. 12, 2024) see also: J.J.C. Smart and Bernard Williams,(eds.), UTILITARIANISM: FOR AND AGAINST (1973).

² Suri Ratnapala, JURISPRUDENCE 212-241 (2009).

³ Ronald Dworkin, *Rights As Trumps* in THEORY OF RIGHTS 153 (Jeremy Waldron, ed.1984)

⁴ Roscoe Pound, JURISPRUDENCE Vol.III, (1959).

Consequently, in a contentious situation, we must regard minority interest as a form of societal interest that necessitates the contentment and satisfaction of minority groups. This approach allows for the comparison of public and minority interests on an equal basis, necessitating changes to address conflicting interests. We will also see how the judiciary at various instances has implemented the modifications, potentially by using this process unconsciously.⁵

In order to better understand the rights of the minorities we need to first decipher the meaning of the term minority. In simple terms it means a 'non dominant group'. However the term has been derived from the *Latin* word '*minor*' which etymologically means 'small in number'. According to the Cambridge Dictionary, it means 'any small group in society that is different from the rest because of their race, religion, or political beliefs, or a person who belongs to such a group'.⁶ As per the Oxford English Dictionary's definition of a minority, it means opposite the majority which is the smaller group or component, particularly one that is less than half of the total. A minority group is described by Capotorti as a fraction of a state's population that is numerically less than the majority yet is still not dominant. Its members are legal inhabitants of the country yet linguistically, culturally, or racially distinct from the majority. However, in an endeavour to hold on to their language, customs, religion, and culture, they demonstrate some level of togetherness with the majority.⁷

In a pluralistic democracy the interests of the minorities should be safeguarded. The minority rights needs to be preserved in order to protect the cultural diversity and equality upholding the rule of law in modern democracy. In the words of Franklin D. Roosevelt, 'No democracy can long survive which does not accept as fundamental to its very existence the recognition of the rights of minorities'. Globally, many efforts have been made in order to protect the rights of the minorities.

During the nineteenth century, article 19 of the Austrian Constitutional Law (1867) declared that ethnic minorities have an unequivocal right to keep and develop their nationality and languages. Similar provisions were found in Hungary's Act XLIV of 1868, and in the Constitution of the Swiss Confederation of 1874, which allowed the three languages of the country equal rights in public services, legislation and in courts. The provisions of the peace treaties after the First World War, focused mainly on the situation of minorities. Minority protections were formalized in the five

⁵ Udai Raj Rai, FUNDAMENTAL RIGHTS AND THEIR ENFORCEMENT, 659 (2011).

⁶ CAMBRIDGE DICTIONARY *available at*:
<https://dictionary.cambridge.org/dictionary/english/minority> (last visited Dec. 12, 2024).

⁷ See, UN Sub-commission on Prevention of Discrimination and Protection of Minorities, STUDY ON THE RIGHTS OF PERSONS BELONGING TO ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES, E/CN.4/Sub.2/384/Rev.1, 1979 (Francesco Capotorti: Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities).

treaties signed between the allied and associated states on the one hand, and Poland, Czechoslovakia, Romania, Greece and Yugoslavia on the other. Special protections for minorities were added in the peace treaties with Austria, Bulgaria, Hungary and Turkey, while Albania, Finland and Iraq announced that they would preserve their minority.⁸

In present times, the protection of such rights has also been seen as a vital component of protection of human rights. For which the article 27 of ICCPR provides protection to ethnic, religious or linguistic minorities⁹ whereas article 30 of the CRC additionally gives protection to the persons of indigenous origin as well.¹⁰ Moreover, the 1992 Declaration became the pioneer in order to explicitly give protection to the rights of the minorities, as article 1 emphasizes upon the proactive role of the state for such protection however, the provision leaves a room for discretion which might result into *lacunae* regarding its enforceability. Article 2 specifically outlines the rights related to culture, religion and language, but the dual emphasis on private and public enjoyment of rights might be in conflict and can result into inconsistencies with regard to its implementation.¹¹

This paper is divided into four parts. First section introduces the subject. In the second part of this paper the constitutional framework regarding the minority rights specially provisions relating to the minority educational institutions mentioned under article 30 is analysed. In this part the interrelationship *i.e.* the symbiotic relationship amongst article 30 with Part III, IV and IVA is examined in the light of the preambular promises. The third part of this paper deals with the judicial

⁸ Faizan Mustafa, *The Constitution on minority rights*, THE HINDU, Dec. 18, 2024, available at: <https://www.thehindu.com/news/national/the-constitution-on-minority-rights/article68995551.ece> (last visited Dec. 18, 2024).

⁹ International Covenant on Civil and Political Rights, 1966, article 27 states: *'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language'*.

¹⁰ Convention on the Rights of the Child, 1989, article 30 states: *'In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language'*.

¹¹ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992, article 1(1) states: *'States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity'* and article 2(1) states: *'Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination'*.

approach with respect to the minority right to 'establish and administer' educational institutions of their own choice. This part deals with the judicial exercise of shaping the jurisprudence revolving around article 30 before and after the *T.M.A. Pai foundation* case¹² (here in after referred to as *T.M.A. Pai* case). This part further deals with the case study of recent verdict of the Apex Court in *Aligarh Muslim University v. Naresh Agarwal*. (here in after referred to as AMU). In this part the paper focuses upon the historical aspect of the establishment of AMU, understanding the judicial evolution from *S. Azzez Basha v. Union of India*¹³ to the recent 7 judge bench judgement.¹⁴ Lastly, the fourth part of this paper concludes the study and provide some insightful suggestions in line with the constitutional essence of living law harmonising the rights of the minorities along with the constitutional vision of the nation.

II

Constitutional Framework on Minority Educational Institutions

India being a nation which accommodated pluralism and diversity since time immemorial, has tried to incorporate the essence of protection of each community by creating a subtle balance between the rights of the majority and that of minority. In the constitutional landscape the term minority has not been adequately defined,¹⁵ leaving a room for purposive interpretation in the light of dynamic shift based on the evolving societal needs.

During the framing of the Constitution one of the major issue was to categorise the interests of the minorities and for creating a balance with the larger societal interest. Sardar Vallabhbhai Patel sensitively addressed this dilemma, underscoring the necessity for a solution he highlighted that the rights which was agreed upon by the majority and in consonance with the interests of minorities were incorporated.¹⁶

The reason behind such issue which was persistent in this context was highlighted in *Sardar Vallabhbhai Jhaverbhai Patel's* speech on August 27, 1947 while moving the Report on Minority Rights¹⁷. Patel's speech highlighted that:

¹² *T.M.A. Pai Foundation v. State Of Karnataka*, (2002) 8 SCC 481 (India).

¹³ *S. Azzez Basha v. Union of India*, 1968 SCR (1) 833 (India).

¹⁴ *Aligarh Muslim University Through its Registrar Faizan Mustafa v. Naresh Agarwal*, 2024 SCC OnLine SC 3213 (India).

¹⁵ P. M. Bakshi, *THE CONSTITUTION OF INDIA* 80 (2011).

¹⁶ *Constitutional Assembly Debates*, Vol. V, pp. 212-215.

¹⁷ B. Shiva Rao, *THE FRAMING OF INDIA'S CONSTITUTION* Vol. II, 423 (Reprint: 2005).

‘There are certain points on which the minorities cannot be united because there are minorities within minorities. So it is a difficult proposition. We have tried to solve this difficult problem without any bitterness and without any controversy which would create any ill-feeling or hitch and I hope that this House also will be able to dispose of this question in a friendly spirit and in an atmosphere of goodwill’.¹⁸

Patel’s acknowledgement underscores the complexity of balancing overlapping interests within a pluralistic framework. The idea of intricacy in determining minorities highlights the complex layers of diversity present in Indian society, where cultural, linguistic, and religious sub-groups exist alongside larger minority communities. This situation required a constitutional framework that emphasized inclusivity while maintaining social harmony.

According to Khushal Talaksi Shah,

‘Ordinarily, minorities being also made up of citizens would claim no special rights within the State they live in. But minorities are such and so constituted, that they could never hope to be changed into a majority, and so come to power in a democratically governed State’.¹⁹

Pandit Govind Ballabh Pant also emphasised upon the necessity of fully satisfying minorities to maintain progress and peace in the nation.²⁰

These observations underscore that safeguarding minority rights is fundamental for cultivating trust within a constitutional democracy, rather than merely a concession. The framers established a foundation for a more equitable and harmonious society by granting minorities the autonomy to maintain their distinct identities.

In the Constituent Assembly debate regarding amendment to draft article 23,²¹ Dr. B. R. Ambedkar clarified that the term ‘minority’ was not limited to its technical sense (*e.g.*, minorities requiring political safeguards like representation in legislatures or services). Instead, it was intended to encompass cultural and linguistic minorities, even if they are not minorities in the conventional political sense.²²

The understanding of the framers regarding India’s rich variety and the necessity for inclusivity found expression in explicit constitutional provisions from articles 25 to 30 to protect the religious, cultural and educational rights of both the majority and the minority communities.²³ However the protection of minorities being explicitly provided under the head ‘cultural and educational rights’ comprises of article s 29 and 30. Wherein article 29 tries to preserve the cultural interests of the

¹⁸ *Id.*, note 16.

¹⁹ *Id.*, note 17, B. Shiva Rao, at 377.

²⁰ Constitutional Assembly Debates Vol. II, pp. 338.

²¹ Corresponding to article s 29 and 30 of the Indian Constitution.

²² Constitutional Assembly Debates Vol. VII, pp. 922-923.

²³ Priti Saxena, *Judiciary on Educational Rights of Minorities*, XXXII IBR 425, 426 (2005),

minority²⁴ and article 30²⁵ emerged as a cornerstone for the protection of minority's right to establish and administer educational institutions. This provision permits minorities to establish and govern educational institutions, safeguarding their cultural and linguistic identities. It translates the ideas negotiated in the Constituent Assembly into practical constitutional rights.

In order to understand the educational rights of minorities, we must delve into the provision of Article 30.²⁶ By the bare reading of Article 30(1) it is clear that unlike the provision mentioned under article 29, article 30 provides protection to only linguistic or religious minorities and not to any other section of the Indian citizens. Here the use of the word 'or' means that a minority may either be linguistic or religious and it does not have to be both.²⁷ It can be either one of the two or can be both. In the case of *DAV College v. State of Punjab*²⁸, the Supreme Court clarified this point. The question was whether the *Hindus or Aryasamajis* in Punjab constituted the type of minority described in article 30(1). 'After holding that it was the State population that would form the basis for determining the minority character of a community, a point that is discussed more elaborately below, speaking for the bench, Jaganmohan Reddy, J. said that the fact that the Hindus were in minority in the State of Punjab was enough to entitle them to claim the protection of article 30(1) even though their claim to be also a linguistic minority was disputed by the State'.²⁹

A linguistic minority for the purpose of article 30(1) is the one which possesses a separate spoken language. It is not necessary that the language should likewise have a separate script. India has a variety of languages which have no script of their own, but, yet, persons speaking such a language will constitute a linguistic minority to

²⁴ In the marginal note even though the article provides for the 'protection of the interests of minorities' but the operative part mentions 'any section of the Citizens'. By virtue of the rules of interpretation it is clear that the right under article 29 is not restricted to any particular minority rather it gives the right to any section of the citizens in order to protect their culture and preserve the same.

²⁵ The Constitution of India, 1950, article 30 states: '*Right of minorities to establish and administer educational institutions: [1]All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.[1A]In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.[2]The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.'*

²⁶ *Id.*

²⁷ M.P. Jain, *INDIAN CONSTITUTIONAL LAW* 1343 (2010)

²⁸ *DAV College v. State of Punjab*, (1971) 2 SCC 269.

²⁹ *Supra* note 5 Udai Raj Rai at 644.

claim protection under article 30(1).³⁰ The reason for including linguistic minorities under the constitutional ambit is based on the anticipation that the Indian political map being redrawn by linguistic reorganisation of the states.³¹ The basis for determining the minority status at the state population level is due to the reason that there has to be no ambiguity in ascertaining the minority status of any two groups for the purpose of this article. By virtue of the Seventh Constitutional Amendment³² two provisions were added for the protection of the linguistic minorities. The insertion of articles 350A³³ and 350B³⁴ help to provide an additional protection to the linguistic minorities in two respects. Firstly, by guaranteeing education in mother tongue language at the primary level and secondly, by appointment of a Special Officer to investigate and address their concerns. These provisions ensure cultural preservation, equal opportunity, and empowerment of the linguistic minorities within the constitutional framework.

The protection of religious minorities has been ensured at various instances under the Indian Constitution³⁵ apart from the protection under article 30. But for the purpose of this article the religious minorities will be assessed at the state level or union level was answered by the Supreme Court in a case wherein this issue came up before the court.³⁶ The issue was whether the *Hindus and Aryasamajis* can be recognised as religious minorities in Punjab was addressed based on whether the law in question was a State or Union law. Since the impugned law was enacted by the reorganised Punjab state, the Court found that Hindus in Punjab were qualified as a minority under article 30(1).³⁷ Therefore, it had been commonly accepted that the minority character is to be ascertained with respect to the particular legislation being challenged.³⁸ However through the majority judgement given by the 11 judges

³⁰ *Supra* note 28.

³¹ *Id.*, note 29.

³² The Constitution (Seventh Amendment) Act, 1956.

³³ The Constitution of India, 1950, article 350A states: '*It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.*'

³⁴ The Constitution of India, 1950, article 350B states: '*[1] there shall be a Special Officer for linguistic minorities to be appointed by the President. [2] It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.*'

³⁵ The freedom of Religion mentioned under articles 25-28 of the Indian Constitution.

³⁶ *Supra* note 28.

³⁷ *Supra* note 5 Udai Raj Rai at 645.

³⁸ *Supra* note 28, see also: Ruma Pal, J. in *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481 (India).

bench in *T.M.A. Pai case*³⁹ by the Apex court, it is a settled law now that the minority status of the community has to be examined at the state population level. The court in the majority view also observed that the term minority cannot have different meanings depending upon who is legislating.⁴⁰

The right conferred to the religious minority under the ambit of article 30(1), thus means that when a religious minority builds an institution, it retains the autonomy to administer and supervise its administration in a manner that aligns with its beliefs and best serves the interests of both the community and the institution.⁴¹ Notably, even a single philanthropic individual from the minority community might establish such an institution using his own means and yet qualify for protections under Article 30(1).⁴²

The phrase used in article 30(1) is 'establish and administer' which prima facie means that the minority community in order to administer an educational institution must also establish it.⁴³ In the case of *St. Stephen's College v. University of Delhi*⁴⁴, the Supreme Court held that 'in order to claim the right to administer the community also must prove that the said institution was established by them. The word 'and' plays a conjunctive role in the phrase of 'establish and administer'. In *T.M.A. Pai*⁴⁵, the Court unanimously held that the right to establish and administer an institution under Article 30(1) of the Constitution encompasses several specific rights: (a) admitting students, (b) setting a reasonable fee structure, (c) forming a governing body, (d) appointing teaching and non-teaching staff, and (e) taking disciplinary action against employees for dereliction of duty.⁴⁶ For the purpose of this provision we must also note that the idea behind such protection is in line with the fundamental aspects of the Constitution. Moreover, it is essential for democratization of justice as by way of imbibing the minorities into the main streamline they would instill the ideals of inclusivity and will have the feeling of positive participation in the nation building through the means of education.

In the case of *S.P. Mittal v. Union of India*, the Supreme Court stated that: 'In order to claim the benefit of Article 30(1), the community must show: (a) that it is a religious/linguistic minority, (b) that the institution was established by it. Without

³⁹ *Supra* note 12, see also: *T. Varghese George v. Kora K. George*, AIR 2012 SC 144 (India).

⁴⁰ *Supra* note 12 at 553.

⁴¹ *Supra* note 27 M.P. Jain at 1346.

⁴² *Manager, St. Thomas U.P. School, Kerala v. Commr. and Secy. to General Education Dept.*, AIR 2002 SC 756 (India), see also: *State of Kerala v. Mother Provincial*, AIR 1970 SC 2079, (India).

⁴³ By virtue of the presence of 'and' as a conjunction between establish and administer, see: *Supra* note 24 M.P. Jain at 1346.

⁴⁴ *St. Stephen's College v. University of Delhi*, AIR 1992 SC 1630 (India), see also: *S. Azzez Basha v. Union of India*, 1968 SCR (1) 833 (India).

⁴⁵ *Supra* note 12.

⁴⁶ *Supra* note 41.

satisfying these two conditions it cannot claim the guaranteed rights to administer it'.⁴⁷ On similar lines the Allahabad High Court, in the case of *Yogendra Nath Singh v. State of Uttar Pradesh*, also observed that 'the twin character has to be established' and in the absence of even one, the minority status for the purpose of article 30(1) cannot be granted.⁴⁸ However, in our opinion giving literal interpretation to such clause might result into hindrance in the future as the needs and social dynamics will keep on changing. On one hand there have been multiple instances where in Patna High Court and Kerala High Court have focussed upon the fact that merely having the institution being established by a member of a particular religion does not confer the status to such institution as minority institution.⁴⁹ On other hand, the Supreme Court has applied the law extensively in order to include the minority institution having been established out of foreign funds. The court emphasised that the mere fact that the acquisition of foreign funds by a minority in India for the establishment or development of a school, or the occasional involvement of individuals not born in India in its management, does not negate the institution's eligibility for the safeguards afforded by article 30(1).⁵⁰ Therefore, the focus should be on the minority intent of the community, which must be interpreted purposively in line with the constitutional principles to promote harmony and strengthen the ideals of fraternity.

The term 'educational institution' for the purpose of this article means an institution that impart education including at all levels from the primary school up to the postgraduate level and also includes professional education.⁵¹ The use of the words 'of their own choice' in article 30 (1) gives a wider discretion to the minorities regarding educational institutions. The presence of these words give the protection by virtue of giving them the autonomy in matters of such institutions. It also means that the minority community has the freedom to decide the number of subjects that can be taught in the minority institutions.⁵² Moreover, this right is also not limited, in the sense, in which means it is not necessary that the minority community will be teaching about their own language or religion as the case may be. However, it must be kept in mind that the object behind the incorporation of this article was to impart secular education to the minorities. The Supreme Court also pointed out that the purpose of this right was giving their children the best general education to make

⁴⁷ *S.P. Mittal v. Union of India*, AIR 1983 SC 1, (India).

⁴⁸ *Yogendra Nath Singh v. State of Uttar Pradesh*, AIR 1999 All HC 356, (India).

⁴⁹ *Rajershi Memorial Basic Training School v. State of Kerala*, AIR 1973 Ker HC 87 (India); *Arya Pratinidhi Sabha v. State of Bihar*, AIR 1973 Pat HC 101 (India); *A.M. Patroni v. Asst. Educational Officer*, AIR 1974 Ker HC 197 (India), see also: *Panna Lal v. Magadh University*, AIR 1976 Pat HC 82 (India).

⁵⁰ *S.K. Patro v. State of Bihar*, AIR 1970 SC 259, (India).

⁵¹ *Supra* note 12 at pp. 590.

⁵² *Re: The Kerala Education Bill*, (1959) SCR 995 at pp.1052 (India); *Sidhrajibhai Sabbai v. State of Gujarat*, AIR 1963 SC 540 (India), see also: *Supra* note 27 M.P. Jain at 1350.

them complete men and women in the country.⁵³ Therefore, the general secular education will help the minorities to be involved in the main streamline through the means of education. This provision is in line with the preambular precepts of liberty, equality and fraternity.

The 44th Amendment Act of 1978 abolished articles 19(1) (f) and 31 from the Constitution and instituted article 30(1-A)⁵⁴. This article guarantees that if a minority-owned educational institution is compulsorily acquired, the compensation provided must be sufficient to prevent the minority community from being impeded in exercising its rights under article 30(1).⁵⁵ The newly added clause ensures sufficient compensation and requires the State to cover supplementary costs incurred by the management. This encompasses the cost of locating an appropriate replacement property and any temporary arrangements necessary prior to the substitute's availability. Therefore, the Supreme Court has appropriately recommended the establishment of a specialised law to address these circumstances, as current land acquisition statutes may not sufficiently fulfill these particular needs.⁵⁶

The jurisprudential essence behind this clause is to create a balance between public interest *i.e.*, the state's ability to acquire property for public purposes and minority autonomy *i.e.*, to operate freely from excessive state intervention. This clause also incorporates the doctrine of substantive equality by acknowledging that the minorities require explicit protection to ensure their autonomy in a democracy dominated by the majority. Additionally, it is also in line with the preambular objective of justice ensuring fairness and equity in the favour of minorities. Thus, this provision helps in order to ensure the sense of faith and trust to the minorities by providing them a constitutional guarantee of compensation so that they can freely exercise the right given to them under article 30(1).

Article 30(2)⁵⁷ of the Indian Constitution is complementary in nature as it complements the protections guaranteed under the clause 1. It explicitly forbids the state from discriminating against minority educational institutions in the allocation of funds. The Supreme Court in *State of Kerala v. Mother Provincial* held that the minority educational institutions are entitled to state financing without discrimination, providing they meet the required standards applicable to all institutions.⁵⁸ This article embodies the constitutional dedication to equality and non-discrimination while safeguarding the autonomy of minority institutions.

⁵³ *Ahmedabad St. Xaviers College v. State of Gujarat*, AIR 1974 SC 1389, (India).

⁵⁴ *Supra* note 25.

⁵⁵ *Supra* note 5 Uday Raj Rai at 653.

⁵⁶ *St. Joseph's College v. Union of India*, AIR 2002 SC 195, (India).

⁵⁷ *Supra* note 25.

⁵⁸ *State of Kerala v. Mother Provincial*, AIR 1970 SC 2079, (India).

This provision ensures that minority institutions are not excluded from getting access to state resources solely on the ground of their minority character. It imbibes the principle of neutrality of the state, ensuring that the state policies treat all institutions equally, regardless of their management. The Supreme Court opined that even though the aid must not be discriminatory in nature but this does not mean that the minority institutions are not exempted from reasonable regulatory conditions attached to the aid.⁵⁹ This clause is also in line with the jurisprudential fairness as it deals with equality of opportunity thereby resulting into the incorporation within the broader constitutional epistemology of non-discrimination as enshrined under articles 14 and 15. This provision is also in line with the preambular objective of socio-economic justice and the ideals of constitutional philosophy i.e. fraternity and pluralism within the wider democratic framework.

However, even though the provision ensures non-discrimination but it does not explicitly grant an absolute right to state aid, which can be a point of contention. The Supreme Court also observed the same in the case of *P.A. Inamdar v. State of Maharashtra*⁶⁰ that while article 30(2) forbids discrimination against minority institutions in giving help, it does not guarantee an absolute right to such funding. Institutions must comply with general conditions applicable to all assisted institutions. Moreover, there can be many instances where in the state policies would result into inadvertently favouring of certain institutions, which may lead to perceptions of inequality. Thus, the provisions must be interpreted very cautiously by creating a balance between the minority rights and larger constitutional goals.

Now, after analysing the concept of article 30 it is important to explore how this provision interacts with other constitutional provisions and principles particularly enshrined under the Preamble, Part III, Part IV, and Part IVA of the Indian Constitution. This symbiotic interrelationship model reveals the cohesive constitutional design which seeks to create a balance among the autonomy of minorities with fundamental aspect of equality, justice and fraternity. This intersection also gives us an understanding of whether the right acts as a means in order to preserve India's pluralistic democracy. Through this lens we get a jurisprudential vision of how does the various provisions interplay in the dynamic constitutional landscape.

Article 30 and Article 14: Right to Equality

Article 14⁶¹ provides for equality before law and equal protection of laws but the protection mentioned under article 30 resembles substantive equality, assuring that minority communities require special protection. Such special protection is in line

⁵⁹ *Supra* note 27.

⁶⁰ *P.A. Inamdar v. State of Maharashtra*, 2005 (6) SCC 537, (India).

⁶¹ The Constitution of India, 1950, Article 14 states: '*The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*'

with the 'equal protection of laws' clause because it provides the scope for the state to take proactive measures in order to protect and promote the interests of the disadvantaged section. Hence, Article 30 is not an exception to the rule of equality laid down by article 14 but is an application of that rule to the minority rights protected under article 30(1).⁶²

Article 30 also aligns with the doctrine of reasonable classification under Article 14. In *Re: Kerala Education Bill*, the Supreme Court observed that minority rights for the purpose of article 30 forms a reasonable classification to guarantee cultural and educational autonomy.⁶³ The protection of minorities is not a preferential treatment rather it is a necessary action to preserve diversity and ensure fairness by upholding rule of law in a majoritarian democracy.

Article 30 and Article 15: Prohibition of Discrimination

On one hand, article 15 prohibits discrimination, and on the other hand, article 30 allows minorities the right to establish institutions, with the emphasis, especially to cater to their communities. Thus, reflecting a refined approach to positive discrimination that respects the cultural differences. Article 30 also makes sure that the prohibition prescribed under article 15 does not result into prevention of minorities from safeguarding their unique identities. Article 30(2) re-emphasises article 15 by way of prohibiting discrimination in granting state aid to minority institutions, resulting into equitable treatment.⁶⁴ The court also highlighted the need for non-discriminatory practices in providing aid to minority institutions.

Article 15(5)⁶⁵ which was added by the Ninety-Third Constitutional Amendment Act of 2005 provides for the exclusion of minority institutions. It makes sure that the autonomy provided to the minority educational institutions under article 30 is not undervalued by the mere reason of reservation policies. The Supreme Court in *Ashoka Kumar Thakur v. Union of India*, held that the provisions of article 15(5) are constitutionally valid. The court also highlighted that the exclusion of minority institutions was a vital step in order to ensure their autonomy under article 30.⁶⁶ This exclusion under article 15 (5) results into the incorporation of the rule of

⁶² H.M. Seervai, CONSTITUTIONAL LAW OF INDIA, Vol. II, 1337 (1993).

⁶³ *Supra* note 52.

⁶⁴ *Supra* note 58.

⁶⁵ The Constitution of India, 1950, Article 15(5) states: '*Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.*'

⁶⁶ *Ashoka Kumar Thakur v. Union of India* (2008) 4 S.C.R. 1 (India).

harmonious construction where in article 15(5) protect the larger societal needs and article 30 preserve the autonomy of the minorities. The court in the case of *P.A. Inamdar v. State of Maharashtra*, clarified that the minority institutions have the right to choose their admission policies and are not subject to state-imposed reservation policies.⁶⁷

Critics argue on this point that exempting minority institutions from article 15(5) might result into disparities in access to education for disadvantaged groups. Also, that non-minority institution bears the entire responsibility of following the principles of protective discrimination potentially implying into creation of an unequal burden.⁶⁸ However, in our opinion this exclusion is justified in order to preserve the autonomous status and protect the unique purpose of such institutions.

Article 30 and Article 19: Right to Freedom

The right to establish educational institutions under article 30 directly complements article 19(1) (g)⁶⁹. Educational institutions these days have become a vital avenue for communities to express their professional and cultural goals. The court observed in *T.M.A. Pai case* that, article 30(1) is a welfare provision unlike article 19(1)(g) the institutions established under article 30(1) cannot make outrageous profits unlike article 19(1)(g).⁷⁰ The Supreme Court supported the autonomy of minority institutions in issues such as admissions, fee structures, and administration, reaffirming their compliance with article 19 rights.⁷¹ Likewise, article 19(1)(c) which provides for the freedom of association, is also intrinsically linked to the autonomy of the minorities to organise and administer their institutions collectively.

Now, in order to interpret article 30 with article 19(1) (a) we must understand that, the right under article 19(1)(a) extends beyond the verbal expression to include collective cultural, linguistic and religious expression. The Supreme Court of India also did interpret the term 'expression' under article 19(1)(a) expansively to include cultural and artistic forms.⁷² Minorities under article 30 serves as a medium of cultural expression by virtue of transmitting the linguistic, cultural and religious heritage of the minority communities. Minority institutions entitle communities to

⁶⁷ *Supra* note 60.

⁶⁸ K Vivek Reddy, *Minority Educational Institutions* in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION (Sujit Choudhry, *et.al.*, eds. 2016).

⁶⁹ The Constitution of India, 1950, article 19(1) states: 'All citizens shall have the right – (a) to freedom of speech and expression;(b) to assemble peaceably and without arms;(c) to form associations or unions or co-operative societies;(d) to move freely throughout the territory of India;(e) to reside and settle in any part of the territory of India;(g) to practise any profession, or to carry on any occupation, trade or business.'

⁷⁰ *Supra* note 12.

⁷¹ *Id.*

⁷² *Bobby Art International v. Om Pal Singh Hoon*, AIR 1996 SC 1846 (India).

express their diversity through curriculum, language and teaching pedagogy. The Supreme Court in the case of *Bijoe Emmanuel v. State of Kerala*⁷³ protected the rights of the students to abstain from singing the national anthem as a form of expression by interpreting the right to remain silent within its ambit. Likewise, the autonomy provided to the minorities under article 30 can be observed as a collective form of cultural expression. Hence, the right to establish and administer such minority institutions therefore aligns with the broader framework of article 19(1)(a).

Article 30 and Articles 21, 21A: Right to Life and Right to Education

The right to life enshrined under article 21⁷⁴ includes the right to live with dignity, which incorporates access to education.⁷⁵ 'It is the education that clarifies our belief and faith and helps us to strengthen our spirit of worship'.⁷⁶ Minority institutions established under article 30 add to this right by providing education which is relevant to such minority communities by means of imparting secular education thereby resulting in enhancement of their dignity and quality of life.⁷⁷

The implied requirement of due process in article 21 ensures the shaping of state action affecting the life and personal liberty to be just, fair and reasonable. The due process therefore, also safeguards the autonomy of minority institutions from arbitrary state intervention in their right to administer. This contention is in line with the evolution of substantive due process in India.⁷⁸ The substantive fairness provides that the cultural and educational rights are being preserved and Procedural fairness on the other hand keeps a check on alignment of any regulation imposed upon them with the constitutional principles.

The Supreme Court has also emphasized upon the fact that such regulatory measures imposed by the state must not result into encroachment upon the essence of minority rights.⁷⁹ Minority institutions play a complementary role in promoting the right to education mentioned under article 21A⁸⁰ while ensuring that such education respects their diversity. In the case of *Pramati Educational Trust v. Union of*

⁷³ *Bijoe Emmanuel v. State of Kerala*, AIR 1978 SC 748, (India).

⁷⁴ The Constitution of India, 1950, article 21 states: 'Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law.'

⁷⁵ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India); *Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645 (India).

⁷⁶ *Supra* note 62.

⁷⁷ *Supra* note 53.

⁷⁸ *Maneka Gandhi v. Union Of India*, 1978 SCR (2) 621 (India); *Justice K.S.Puttaswamy(Retd) v. Union Of India*, 2019 (1) SCC 1 (India).

⁷⁹ *Supra* note 60.

⁸⁰ The Constitution of India, 1950, article 21A states: 'Right to education- The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine'.

India⁸¹, the Supreme Court of India observed that minority institutions are free from specific responsibilities under the Right to Education Act⁸². The Court underlined that article 21A, which guarantees the right to education, cannot undermine the autonomy afforded to minority institutions under article 30 of the Indian Constitution.

Article 30 and Article 26: Freedom to Manage Religious Affairs

Article 26 primarily deals with the freedom of every religious denomination to manage its own religious affairs, which includes the right to establish institutions for religious or charitable purposes. Article 30 on the other hand, plays a supplementary role by enabling the religious minorities to establish and administer educational institutions which are in line with their beliefs and traditions. The rights under articles 26(a) and 30(1) are the heritage of the Indian Constitution and the ambit of those rights cannot be reduced on the ground that something otherwise transpired at a time when the then law did not offer the liberty to contest the same or object to that practice.⁸³

The Supreme Court in *S.P. Mittal v. Union of India*, clarified that article 26, which grants the freedom to govern religious issues, is different from article 30, which grants the right to establish and run educational institutions.⁸⁴ The term 'religious denomination' used in article 26 and religious minorities mentioned under article 30 is different. In a landmark case, the Apex court opined that religious denomination was defined as a group of individuals sharing the same name, faith, and organisation. This decision underlined that a religious denomination varies from a religious minority, which refers to groups that are numerically smaller compared to the dominant population.⁸⁵ In another landmark case, the Apex court held that the Ram Krishna Mission was having a status of religious denomination and was protected with the right to establish and maintain a charitable institution.⁸⁶ But it was actually clarified later on by the court in *T.M.A. Pai* case that educational institutions can be established under article 26 (a).⁸⁷

However, both these provisions are intertwined as they both prevent state intervention thereby resulting into protection of their autonomy. In *Rev. Sidhajbhai Sabhai v. State of Bombay*⁸⁸, the Supreme Court stressed the importance of upholding

⁸¹ *Pramati Educational Trust v. Union of India*, (2014) 8 SCC 1 (India).

⁸² The Right of Children to Free and Compulsory Education Act, 2009.

⁸³ *Supra* note 5 Uday Raj Rai at 648.

⁸⁴ *Supra* note 47.

⁸⁵ *Commissioner Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, 1954 SCR 1005 (India).

⁸⁶ *Brahmachari Sidheshwar Shai v. State of West Bengal*, (1995) 4 SCC 646.

⁸⁷ *Supra* note 12, see also: H.M. Seervai, CONSTITUTIONAL LAW OF INDIA, Vol. II, 1352 (1993).

⁸⁸ *Rev. Sidhajbhai Sabhai v. State of Bombay*, 1963 SCR (3) 837 (India).

the rights of religious minorities in governing their institutions. The Court noted that the provisions of article 26 and Article 30 of the Indian Constitution are vital for safeguarding the autonomy of religious and educational institutions created and governed by minority groups. In both these provisions huge profit making cannot be done in the name of imparting education as article 30(1) is a welfare provision and article 26(a) promotes the charitable purpose.⁸⁹ Henceforth, both the provisions align with the constitutional goal of right to education and protection of diversity in the context of educational institutions.

Article 30 and Article 29: Cultural and Educational Preservation

Article 29 and 30 both these rights are provided in the Constitution under the heading of Cultural and educational rights. Article 29(1) provides for the protection of minorities with regard to preservation of their language, script and culture while article 30 ensure the institutional framework to preserve and propagate these identities by means of education. Collectively, they aim to protect the values of cultural diversity resulting into unity of the nation. However, even though they might appear to be similar on close reading it can be seen that there are certain differences in these provisions.

There is a significant link between articles 29(1) and 30. A minority community can effectively retain its language, script, or culture through educational institutions. By building and maintaining educational institutions, minority communities may inculcate their language and culture in their children's minds. Article 30(1) provides this right, however it doesn't mean only institutions primarily focused on protecting minority language, script, or culture are protected by article 30. Even general education institutions formed by minorities might claim protection.⁹⁰ Article 29(1) protects the rights of the Indian citizens whereas Article 30 do not confer any pre-condition as to citizenship. While the phrase 'any section' under article 29 includes majority as well whereas article 30 explicitly gives protection to linguistic or religious minorities.⁹¹ The Supreme Court held that articles 29 and 30 create two distinct rights and that 'the width of article 30(1) cannot be cut down by introducing in it consideration on which article 29(1) is based'.⁹² Article 29(1) provides a general right which preserves minorities' language and culture, while article 30(1) provides them the special right to form institutions of their choice, including secular ones.⁹³ Minority institutions can't deny admission to students based on religion, race, caste, or language, as per article 29(2).⁹⁴

⁸⁹ *Supra* note 12.

⁹⁰ *Supra* note 27 M.P. Jain at 1349.

⁹¹ *Id.*

⁹² *W. Proost v. State of Bihar*, AIR 1969 SC 465 (India).

⁹³ *Supra* note 52.

⁹⁴ *Sidhrajibhai Sabbai v. State of Gujarat*, AIR 1963 SC 540 (India),

On one side, article 29 guarantees rights, while on the other side article 30 casts duties on minority institutions, assuring their autonomy promotes cultural preservation and educational equality. In *Ahmedabad St. Xavier's College v. State of Gujarat*⁹⁵, a clause in the Gujarat University Act that allowed the University to take over undergraduate teaching from minority colleges was deemed to contravene article 30(1). Moreover, the University's jurisdiction to change associated colleges into constituent colleges, incorporating them into the University, was ruled inapplicable to minority colleges, as it would eliminate their unique and minority identity. The Supreme Court⁹⁶ also underlined the interdependence of articles 29 and 30, saying that article 29 safeguards cultural rights, while article 30 gives institutional autonomy to support such rights. These sections underline the Constitution's role in preserving unity in diversity by cohesive bond of fraternity. Minority educational institutions therefore, operate as mediators between cultural preservation and national integration.

Article 30 vis-à-vis Part IV and Part IV-A: DPSP and Fundamental Duties

The provision of Article 30 also adheres to the idea of socialism by virtue of which it is linked to the Part IV of the Indian constitution which provides for the Directive Principles of State Policy. As the rights are provided to the minority communities under article 30 so it also corresponds to the relative concept of the duties by reason of which it also shares a correlative relation like any other fundamental rights with the Part IVA *i.e.*, fundamental duties. In this discussion we will try to see the relationship among these parts through the provisions of articles 30, 46 and 51A (e)(f).

Article 46 mandates the state to promote the educational and economic interests of the weaker sections which includes SCs and STs.⁹⁷ While article 30 specifically deals regarding minorities both these provisions aims to secure the broader goal of socio-economic justice by fostering educational equity.⁹⁸ Minority institutions established under article 30 helps to achieve the constitutional directive of empowering the weaker sections by means of education. Courts have also relied upon the importance

⁹⁵ *Supra* note 53.

⁹⁶ *Id.*

⁹⁷ The Constitution of India, 1950, article 46 states: '*Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections- The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.*'

⁹⁸ The promotion of socio-economic justice adheres to the preambular objective and aligns with the directive principle enshrined under Article 38 of the Indian Constitution which provides the state to secure a social order for the promotion of welfare of the people.

of balancing the minority rights with the state's duty to promote social justice.⁹⁹ Henceforth, the right provided under article 30 is in consonance with the directives enshrined under article 46 thereby resulting into the promotion of access to education.

As a settled principle of jurisprudence, we know that right and duties are correlative to each other. In order to ascertain the correlation between the rights conferred under article 30 we must see the Part IVA *i.e.*, article 51A¹⁰⁰ of the Indian Constitution. Articles 51A (e) and (f) mandates the citizens with the duty to promote harmony and preserve cultural heritage. Whereas, article 30 furthers these duties by giving the minority communities the right to establish institutions that would help in preserving their heritage and promote harmony via education. The autonomy provided to the minority institutions under article 30 are in consonance with the collective responsibility of citizens to promote unity and respect for pluralism which imbibes the essence of diversity within it. Therefore, by using education as a tool the minorities are inculcating mutual respect thereby fulfilling their constitutional duty of promoting the spirit of common brotherhood and preservation of such common heritage.

From the above discussion it is clear that the provision under Article 30 shares a symbiotic relationship with different parts of the constitution. The essence of the same can be highlighted through the relation with preambular precepts which is in conformity with the fundamental aspect of the Constitution. Sequentially, if we see the entire preamble it resembles its conformity with the provisions enshrined under article 30 at various instances.

The idea of *socialist, secular and democratic* is also implied under the provisions of article 30 this can be understood in the following manner. The essence of giving protection to the minorities under the Constitution resembles the social welfare nature of the state, by adhering to the essential principle of socialism *i.e.* to promote the interest of every weaker section. The idea of providing the education of secular nature so that the children belonging from the minority community can come into the mainstream and by including religious minorities within the ambit of this right adheres to the idea of secularism as well. The protection of rights in such order also aligns with the democratic idea of inclusivity and promoting participation which are the essential principles in any pluralist democracy.

Now, in the context of Justice also the protection of the rights under article 30 is in line with the preambular objective of *socio-economic justice* by means of establishing

⁹⁹ *Supra* note 60.

¹⁰⁰ The Constitution of India, 1950, article 51A(e) and (f) states: '(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women; (f) to value and preserve the rich heritage of our composite culture'

educational equity amongst them. *Liberty* as mentioned in the Preamble is also in conformity with this right. It is explicit by the word 'of their own choice' provided under article 30(1), that such rights which provides them the right in order to protect their thought, expression, and belief, through establishment and administration of the institutions thereby instilling faith upon the constitutional vision. As discussed earlier 'equality of status and opportunity' has been interlinked with the interaction between articles 14 and 30 as the constitution by providing them the categorisation of reasonable classification and special protection subscribes to this preambular vision of equality.

Fraternity has been the essence of the entire discussion so far, as the rights guaranteed to such minority will be giving them the entitlement of collectiveness as a result of which they would inculcate the ideals of promoting the unity and integrity of the Nation.

III

Judicial Interpretation of Article 30 and the Analysis of Supreme Court Verdict on AMU

The judiciary has interpreted the right given to the minorities to establish and administer educational institution under article 30 in various instances some of them has been highlighted in the above discussions. Among all the judgements the decision given by the eleven-judge bench, on October 31, 2002, in *T.M.A. Pai*¹⁰¹ was a key milestone in shaping the jurisprudence evolving around Article 30. The series of judgements which came before the *T.M.A. Pai* case was in a way giving the right a restrictive and varied interpretation.¹⁰² However, the verdict led to multiple interpretations by given by the state governments and educational institutions, culminating into further litigation. The scope of autonomy and regulation for minority and unaided private educational institutions was further refined by the Supreme Court's later rulings.¹⁰³ However, with the entire discussion on this topic

¹⁰¹ *Supra* note 12.

¹⁰² *see: Priti Saxena, Judiciary on Educational Rights of Minorities, XXXII IBR 425, 425-438 (2005).*

¹⁰³ *Islamic Academy of Education v. State of Karnataka, AIR 2003 SC 3724 (India); P.A. Inamdar v. State of Maharashtra, 2005 (6) SCC 537, (India); Society for Unaided Private Schools of Rajasthan v. Union of India, AIR 2012 SC 3445 (India); Pramati Educational Trust v. Union of India, (2014) 8 SCC 1 (India), see also: Mohammed Faraz Husain and Aqa Raza, Minority Educational Institutions and the Supreme Court after the T. M. A. Pai Judgment, I IRJLS 58, 58-68 (2016).*

it is now apt to see the role of recent AMU judgment¹⁰⁴ given by the Supreme Court in shaping the law and issue revolving around the minority character of Aligarh Muslim University.

In order to understand the present scenario, we should briefly discuss the background pertaining to the present case. In 1877, Sir Syed Ahmed Khan with the help of Raja Jai Kishan founded the Muhammadan Anglo-Oriental College (herein after referred as MAO College) in Aligarh to advance modern British education for Muslims while upholding Islamic principles¹⁰⁵. The college, while predominantly was for the Muslims but, it also accepted students from other communities. Aligarh Muslim University (AMU) was established in 1920 under the AMU Act, which consolidated MAO College with another Muslim University Association. The governing body was formerly limited to Muslims;¹⁰⁶ however, revisions in 1951 and 1965 eliminated mandatory religious education, abolished limited Muslim representation, and decentralized control in order to democratize the University's management.¹⁰⁷ In *S. Azeez Basha v. Union of India*,¹⁰⁸ the five-judge bench of the Supreme Court affirmed the validity of that amendment, by virtue of the reason that AMU was neither founded nor governed by the Muslim minority, as it was constituted via central legislation.¹⁰⁹ In 1981, the Act was revised¹¹⁰ to reframe AMU as an institution founded by Indian Muslims, expanding its responsibility to enhance their educational and cultural development.

In 2005, the Allahabad High Court annulled the 50% reservation in AMU for Muslim students in medical degrees, citing the 1967 ruling.¹¹¹ Subsequent challenges before the Supreme Court in 2006 resulted in suspension of the said reservation policy, with the issue being referred to a larger bench.¹¹² In 2016, the NDA government rescinded claim of conferring the minority status to AMU, compelling the

¹⁰⁴ *Supra* note 14.

¹⁰⁵ ALIGARH MUSLIM UNIVERSITY, available at: <https://www.amu.ac.in/about-us/history> (last visited Dec. 23, 2024).

¹⁰⁶ The Aligarh Muslim University Act, 1920, S.23.

¹⁰⁷ SUPREME COURT OBSERVER, available at: <https://www.scobserver.in/cases/aligarh-muslim-university-minority-status-case-background/> (last visited Dec. 23, 2024).

¹⁰⁸ *Supra* note 13.

¹⁰⁹ *Id.*, note 107.

¹¹⁰ INDIA CODE, available at: <https://www.indiacode.nic.in/bitstream/123456789/2372/1/A1920-40.pdf> (last visited Dec. 23, 2024).

¹¹¹ *Naresh Agarwal v. Union of India*, 2005 (4) AWC 3745 (India).

¹¹² *Id.*, note 107 see also: Bhadra Sinha, *Aligarh Muslim University not a minority institution: Govt tells SC*, HINDUSTAN TIMES (Apr. 05, 2016) available at: <https://www.hindustantimes.com/india/aligarh-muslim-university-not-a-minority-institution-govt-tells-sc/story-GYMtOZvFhTSFtiEAITTTJaL.html> (last visited Dec. 23, 2024).

University to advocate for its position autonomously.¹¹³ In 2019, the Supreme Court referred the *S. Azeez Basha* judgment to a seven-judge bench for reconsideration. In furtherance, a fresh seven-judge bench, led by former Chief Justice of India, D.Y. Chandrachud was appointed on 12 October 2023 to decide on the subject.¹¹⁴

In the present case, there were four opinions as the judgment was decided with a matrix of 4:3. The majority opinion was penned down by Hon'ble Dr. D.Y. Chandrachud, the then CJI on behalf of Hon'ble Justices Mr. Sanjiv Khanna, Mr. J.B.Pardiwala, and Mr. Manoj Misra whereas Hon'ble Justices Mr. Surya Kant, Mr. Dipankar Datta, and Mr. S.C. Sharma gave separate dissenting opinions. In this section we will try to analyse the recent judgement on the basis of the major issues formulated by the court. This approach will help us having a comprehensive understanding on the standpoint of the Court regarding the minority institutions and the *indicia* laid down to determine the same.

1. Whether the reference made by a two-judge bench to the seven judge bench in the present case was appropriate?

Regarding this issue there were two different opinions given by the court wherein the majority was of the view that such reference made to the seven judge bench was appropriate. On the other hand the minority opinion relied on the ground of judicial propriety and discipline thereby determining the said reference to be inappropriate. To understand the standpoint regarding this issue in detail it is essential to intersect the reasoning given by the court regarding the two opinions.

In the case of *Anjuman-e-Rahmaniya v. District Inspector of Schools*¹¹⁵ comprising of a two-judge bench of the Supreme Court had mandated the judgement given by a five-judge bench in *S. Azeez Basha* to be reconsidered by a seven-judge bench. It had also sent the subject of determining the 'ingredients' of a minority institution to the larger bench. The Respondents had maintained that the reference to the seven-judge panel was 'wholly bad in law'.¹¹⁶ It contended that the two-judge bench should have sent the matter to a five-judge bench as *Azeez Basha* was resolved by five-judges. They maintained that only a court of five-judges had the authority to submit the matter to a seven-judge bench and that the two-judge bench in *Anjuman-e-Rahmaniya* departed from the protocol. In support of this contention, the Union relied on the precedent of *Central Board of Dawoodi Bohra Community v. State of*

¹¹³ NDTV, available at: <https://www.ndtv.com/india-news/government-to-not-support-minority-status-for-aligarh-muslim-university-1338715> (last visited Dec. 23, 2024).

¹¹⁴ *Id.*, note 107.

¹¹⁵ *Anjuman-e-Rahmaniya v. District Inspector of Schools*, W.P.(C) No. 54-57 of 1981 (India).

¹¹⁶ *Supra* note 14 at page.36 (Para 36).

*Maharashtra*¹¹⁷, which stated that the correctness of a view made by a larger bench can only be questioned by a bench of comparable strength.

To this, CJI Chandrachud in his majority opinion ruled that found the reference in *Anjuman-e-Rahmaniya*¹¹⁸ fell within the 'permissible limits laid down' in the case of *Central Board of Dawoodi Bohra Community*, as it simply 'doubted' the validity and did not 'disagree' with it.¹¹⁹ The idea of creating a distinction between doubt and disagreement is a kind of extensive interpretation given to secure the ends of justice as it is a settled proposition of law that 'procedure is handmaidens of justice and not its mistress'.

The minority opinion on this issue was highlighted by all three judges who dissented in this present case, wherein out of all the opinions the observation of Justice Surya Kant appears to be in line with rationality. In his dissenting opinion, Justice Surya Kant noted that a two-judge Bench's reference 'is not consistent with the established norms of judicial propriety.'¹²⁰ He noticed that the two-judge bench 'not only referred the matter but also specified the numerical strength of the bench.'¹²¹ If this approach was made permissible, a smaller bench may theoretically doubt a verdict rendered by an eleven-judge bench. While expressing his concern on the same he also observed that, '*this would also place the Chief Justice in an untenable position, who would be bound by a judicial order while acting in an administrative role, leading to procedural complications and embarrassment.*'¹²²

On the majority opinion given by Chandrachud, C.J., he remarked that the phrases 'doubt' and 'disagree' convey similar implications as 'a disagreement would originate only when such opinion is shrouded with doubts on law or on facts'.¹²³ In our opinion this interpretation regarding the presumption of the terms 'doubt' and 'disagreement' sounds more logical because it is well connected with the relation of things and also concretise the idea of faith with the judicial system. However, while upholding a subsequent reference he remarked that a smaller bench could send a case to a larger bench if it comprises the Chief Justice. Justice Sharma concurred with his view in this regard.

Justice Dipankar Datta stated that although the seven-judge panel was created by CJI Gogoi's 2019 reference decision, it had 'roots in an order...passed by a bench of 2 (two) Judges' in *Anjuman-e-Rahmaniya*.¹²⁴ He added that *Anjuman-e-Rahmaniya* was

¹¹⁷ *Central Board of Dawoodi Bohra Community v. State of Maharashtra*, 2005 2 SCC 673 (India).

¹¹⁸ *Id.*, note 115.

¹¹⁹ *Supra* note 14 at page 38 (Para 39).

¹²⁰ *Supra* note 14 at page.168 (Para 91).

¹²¹ *Supra* note 14 at page.170 (Para 94).

¹²² *Supra* note 14 at page.171 (Para 94).

¹²³ *Supra* note 14 at page.172 (Para 99).

¹²⁴ *Supra* note 14 at page.229, 230 (Para 9).

defective and the matter was 'hardly related' to the minority status of AMU.¹²⁵ Furthermore, Azeez Basha was binding on the smaller bench, and the reference constituted a 'breach of judicial propriety and discipline.'¹²⁶ While expressing his concern pertaining to this matter, he observed that '*I am afraid, tomorrow, a bench of 2 (two) Judges...could well doubt the 'basic structure' doctrine and request the Chief Justice of India to constitute a bench of 15 (fifteen) Judges*'¹²⁷ The minority opinion in this regard appears to be rational and just as it adheres to the idea of judicial hierarchy and discipline, which is essential in a country that promotes the independence of judiciary by virtue of an integrated structure.

2. Whether the protection conferred under Article 30 extends to the protection of institutions established before the Constitution?

The standpoint of the court regarding this issue is quite clear that the institutions established before the commencement of the Constitution should have the entitlement to claim protection under article 30. In his majority opinion, CJI Chandrachud noted that a difference cannot be made between institutions formed prior and post the commencement of the Constitution. He observed in this regard that, '*the protection and guarantee, if made applicable to only institutions established after the commencement of the Constitution, would debase and defile the object and purpose of the provision.*'¹²⁸ The above opinion aligns with the principle of constitutionalism as it interprets the protection given under article 30 in parlance with the spirit of the Constitution. The constitution if at all, would have tried to create a distinction in this regard then the same would have been mentioned. Thus, in absence of any provision like that we must purposively interpret the provisions of the constitution which promotes inclusivity and unity.

To support his argument he also relied on article 372¹²⁹ by stating that 'it represents the thread of continuity even when a new system of governance is put in place'¹³⁰, which implies that laws that came into force prior to the Constitution will gain additional safeguards afforded by the fundamental rights. Consequently, he held that educational institutions created by religious and linguistic minorities prior to the commencement of the Constitution will get further special protection given by article 30(1).¹³¹ This observation clearly links with the constitutional heredity

¹²⁵ *Supra* note 14 at page.235 (Para 18).

¹²⁶ *Supra* note 14 at page.239 (Para 24).

¹²⁷ *Supra* note 14 at page.243-244(Para 28).

¹²⁸ *Supra* note 14 at page.66 (Para 83).

¹²⁹ The Constitution of India, 1950, article 372 states: '*Continuance in force of existing laws and their adaptation.*'

¹³⁰ *Supra* note 14 at page.67 (Para 84).

¹³¹ *Supra* note 14 at page.68 (Para 85).

adopted by the framers while shaping the rights inculcating the philosophical foundation of such rights before and after commencement.

Justice Surya Kant emphasised that fundamental rights cannot be exercised retrospectively; however, their enforcement was applicable to occurrences that occurred before the Constitution and persisted after it.¹³² Agreeing with CJI Chandrachud, Justice Surya Kant stated that it would be 'absurd and legally unjust' to say that a claim under article 30 cannot be raised as it did not exist before the Constitution.¹³³ Thus, he rightly observed that, '*while certain institutions might have been set up during the pre-Constitutional era, the Court cannot turn a blind eye to their rights that are duly protected by the Constitution.*'¹³⁴

Justice Dipankar Datta further restated the provision for the minorities to get 'protection envisaged under article 30(1).'¹³⁵ Justice Satish Chandra Sharma maintained the same by relying on the seven judge bench decision¹³⁶ which ruled that '*The language chosen in article 30(1) is wide enough to embrace both pre-Constitution and post-Constitution institutions.*'¹³⁷ Thus, from the above opinions it is clear that the protection will be given to the pre-constitutional minority institutions as well.

3. Whether a University established before the enactment of the UGC Act could be covered by Article 30?

In the background of this issue, it has been seen that prior to the commencement of the Constitution 'intervention of the imperial legislature was necessary to incorporate a university.'¹³⁸ Likewise, post-independence until the enactment of the UGC Act, state by virtue of its legislative body played a crucial role in such incorporations. Chief Justice D.Y. Chandrachud explained that these interventions were required to ensure that the degrees given by such universities were recognised by the Union or imperial government.¹³⁹ The fact in issue therefore persists to be whether assistance in incorporation of such University vitiates the autonomy guaranteed to the minority communities.

While authoring the majority opinion, the former CJI Chandrachud observed that the words 'incorporation' and 'establishment' have dissimilar meanings thus they

¹³² *Supra* note 14 at page.176 (Para 111), *see also*: Sushila Rao, *The Doctrine of Eclipse in Constitutional Law: A Critical Reappraisal of its Contemporary Scope and Relevance*, XVIII NLSIR 49 (2006).

¹³³ *Supra* note 14 at page.175 (Para 109).

¹³⁴ *Supra* note 133

¹³⁵ *Supra* note 14 at page.300 (Para 136).

¹³⁶ *Supra* note 52.

¹³⁷ *Supra* note 14 at page.65 (Para 81).

¹³⁸ *Supra* note 14 at page.73 (Para 93).

¹³⁹ *Supra* note 14 at page.74 (Para 93).

can't be used interchangeably.¹⁴⁰ Taking reference from the Oxford Dictionary he suggested that, the former signifies 'the legal existence of the institution' whereas the later means 'the founding or bringing into existence of the institution'.¹⁴¹ Citing the example of University at Punjab, he remarked that often there are cases where colleges are converted into teaching universities. Drawing similarity from the factual matrix of AMU, he took the example of Annamalai University, which was formerly a college but later turned out to be a university under the Annamalai University Act, 1928.¹⁴² While making the distinction from the above examples, he determined that 'establish' cannot and should not be applied 'in a narrow and legalistic sense'¹⁴³, adding that 'incorporation' is not a determining criterion to judge establishment. According to him, what matters is the identity and motivation of the people behind it i.e. 'the promoters and founder(s) are important'.¹⁴⁴ Hence, he stated that for the purpose of article 30(1) there is no distinction between universities and other educational institutions.¹⁴⁵ This opinion is in consonance with the phrase 'educational institutions of their own choice' mentioned under article 30(1).

Justice Dipankar Datta on the contrary to the above opinion remarked that even though MAO College was a minority college, this status does not extend to AMU. He underlined that unlike AMU, the Annamalai University Act acknowledged its founder and the prior institution.¹⁴⁶ In the context of The AMU Act he said that 'the Act is woefully bereft of the same or similar recognition.'¹⁴⁷ He took the example of Sam Higginbottom University of Agriculture, Technology and Sciences¹⁴⁸ and Era University¹⁴⁹, which declared their minority identity in the Preamble of their founding statutes.

Solicitor General Tushar Mehta in his argument stated that MAO College lost its minority identity when it became AMU.¹⁵⁰ However, CJI Chandrachud underlined that a minority institution's status 'cannot be rejected if they were conferred a legal character by a statute enacted prior to 1950'.¹⁵¹ The Act was both ministerial and

¹⁴⁰ *Supra* note 14 at page.74 (Para 94).

¹⁴¹ *Id.*

¹⁴² *Supra* note 14 at page.75 (Para 94).

¹⁴³ *Supra* note 14 at page.75 (Para 95).

¹⁴⁴ *Id.*

¹⁴⁵ *Supra* note 14 at page.76 (Para 95).

¹⁴⁶ *Supra* note 14 at page.268 (Para 72).

¹⁴⁷ *Id.*

¹⁴⁸ *Supra* note 14 at page.268 (Para 73).

¹⁴⁹ *Supra* note 14 at page.269 (Para 74).

¹⁵⁰ *Supra* note 14 at page.27 (Para 26b).

¹⁵¹ *Supra* note 14 at page.78 (Para 98).

legislative in nature, and it was required for the imperial government to recognise degrees.¹⁵²

Justice Surya Kant in his opinion clarified the Azeez Basha judgement by stating that Azeez Basha also incorporated the wider connotation of the term educational institutions for the purpose of article 30. He further observed that, the contention upheld by Azeez Basha regarding AMU that it can't be brought into existence by a private individual reason being the recognition of degrees by the government was erroneous. Thus, Private individuals, including members of the minority population, can establish universities with degrees recognised by the government. Justice Sharma also observed that Azeez Basha does not restrict minorities from establishing a university. Azeez Basha, he added, dealt with a rare issue where a community claimed minority status of an institution that was formed 'by the Legislative Council during the British period.'¹⁵³

In our view, the majority opinion regarding the present issue aligns with the idea of interpreting constitution as a living law. The distinction made between the term incorporation and establishment clarifies the debate revolving around the historical issue of incorporation by the legislative bodies. Also, the approach to see the intent of the community i.e. the person behind the establishment is in line with the ideals of promoting fraternity because such approach would see the essence of the institution rather than formalistic requirement. The emphasis upon the role of giving the purposive interpretation serves the balancing of interest in a way to safeguard the minority rights.

4. What are the parameters for granting an educational institution Minority Status under Article 30 of the Constitution?

Among all the issues, this issue pertaining to laying down the indicia for the minority institution established under article 30 is of utmost importance in order to ascertain the law enshrined under article 30. The majority ruling by CJI Chandrachud in the present case set four characteristics for analysing whether an entity qualifies as a minority institution under Article 30 *i.e.*, Establishment, Purpose of establishment, Implementation and Administration. Each parameter gives a substantial approach to ascertain the minority character, pushing beyond the mere formalistic assessments.

- i. Establishment: The Court underlined the need to trace the initial stages of the institution and identify the individuals or groups involved in its formation.¹⁵⁴ This turns the focus to the substantive aim of the founders, which matches with the community's interests.

¹⁵² *Id.*

¹⁵³ *Supra* note 14 at page.439 (Para 188).

¹⁵⁴ *Supra* note 14 at page.98 (Para 135).

- ii. Purpose: The court highlighted that while the organisation must primarily serve minority populations, it is not essential to promote exclusivity regarding the same.¹⁵⁵ This demonstrates an inclusive approach, ensuring minority institutions can contribute to greater educational aims without forfeiting their identity.
- iii. Implementation: Factors such as funds, approvals, and infrastructure underscore the active role of the minority community in materialising the organisation.¹⁵⁶ The notion of Post-establishment state funding was correctly deemed negligible in modifying minority status. It highlighted the observation given regarding minority institutions in *T.M.A. Pai*¹⁵⁷ by exemplifying that the '*minority institutions are not barred from receiving aid save at the cost of their minority status*'.¹⁵⁸ This protection thus ensures the preservation of right by upholding their autonomy.
- iv. Administration: Administrative control is a consequence and not an essential requirement, serves as a test to affirm the institution's minority identity.¹⁵⁹ The real test in this regard would be to ascertain whether such structure confirms the minority character of the institution. This criterion also suggests regarding the pre-constitution institutions that their administrative character would be determined on the basis of enforcement date of the Constitution.

Finally, the court concluded that 'there can be no straitjacket formula which may be applied'¹⁶⁰ thus, the aforementioned indicia of establishment must be assessed as a whole, along with any relevant facts which are accessible to the Court. The matter must be assessed in full and competing considerations must be weighed against each other depending on the facts and circumstances of each institution. The foregoing indicia must be established by 'the submission of cogent material'.¹⁶¹ Reliance must be put on primary sources such as office documents, letters and resolutions or memorandums produced to implement the resolutions.

Therefore, we are of the opinion that, the majority judgment clearly indicates a purposive interpretation of article 30, anchoring it within the broader constitutional framework of pluralism, justice, equality, and fraternity. It also corresponds with the sociological school of jurisprudence by valuing the practical realities and social conditions of minority communities over rigid or literal textual interpretations.

Justice Surya Kant, in his dissenting opinion, presented criteria for determining both the 'establishment' and 'administration' of an institution. His *criterion* is in parlance to those stated by CJI Chandrachud but incorporated elements indicating when an

¹⁵⁵ *Supra* note 14 at page.98 (Para 136).

¹⁵⁶ *Supra* note 14 at page.99 (Para 137).

¹⁵⁷ *Supra* note 12.

¹⁵⁸ *Supra* note 156.

¹⁵⁹ *Supra* note 14 at page.100 (Para 138).

¹⁶⁰ *Supra* note 14 at page.102 (Para 141).

¹⁶¹ *Supra* note 14 at page.102 (Para 142).

institution is not administered by a minority group. He concluded on the lines that, 'if long-term administrative choices and everyday operations are not controlled by the community, the institution is run by an outside authority, and not by the minority community'.¹⁶²

Justice Dipankar Datta remarked that the idea of minority was missing in colonial India, hence criteria for determining a minority institution post-Constitution cannot apply to pre-Constitution institutions.¹⁶³ He disagreed with the majority opinion citing that creating an institution alone might grant it minority status.¹⁶⁴ Although CJI Chandrachud did not analyse AMU's minority status, Justice Dipankar Datta hinted that his criteria supported AMU. He argued that it was only a 'matter of time' before AMU was awarded minority status under the majority's standards.¹⁶⁵

Justice Satish Chandra Sharma also disagreed with equating establishment with the words like 'genesis of the institution' or the 'founding moment of the institution'. He argued that establishment must be fully by the minority community. Even if the community originated the idea, if government efforts and control prevail, it can't be labelled a minority institution. The administration must likewise be entrenched in the minority community. He also agreed with Justice Surya Kant's criteria for determining the institution's administrative setup

The dissenting judgments, being noteworthy, take up a formalistic lens which risks narrowing down the scope of minority rights under article 30. Justice Surya Kant's emphasis on external control as undermining minority administration fails to coalesce autonomy with the realistic governance concerns. Justice Dipankar Datta's reliance on historical absence of 'minority' in colonial India overlooks the transformational goal of the Constitution as a living law. Justice Satish Chandra Sharma's fixation on exclusive minority control in establishment and administration rejects the contextual realities of pre-Constitution institutions like AMU, where state action was often unavoidable. However, the majority's flexible and purposeful framework is more in line with India's pluralistic society's changing reality and the inclusiveness ethos of the constitution.

5. Whether Recognition as an institution of 'national importance' impacts its minority status?

This issue will be briefly discussed by highlighting the opinion of the Supreme Court. The Entry 63 of the Union List contains Benares Hindu University, AMU, and Delhi University as national institutes, and Parliament can proclaim more as such.¹⁶⁶

¹⁶² *Supra* note 14 at page.206 (Para 182).

¹⁶³ *Supra* note 14 at page.300 (Para 136).

¹⁶⁴ *Supra* note 14 at page.301 (Para 136).

¹⁶⁵ *Supra* note 14 at page.232 (Para 13).

¹⁶⁶ *Supra* note 14 at page.104 (Para 145).

The respondents' assertion that AMU's presence in Entry 63 suggesting it is not to be a minority institution was disregarded by the majority. CJI Chandrachud highlighted that the status of national character does not undermine the right of the institution to lose its minority character by stating that, '*the qualities denoted by the terms 'national' and 'minority' are not at odds with each other nor are they mutually exclusive*'.¹⁶⁷ This idea finds its relevance in the essence of India's pluralist Constitutional vision, which attempts to seek balance between diversity and national unity. This concept also corresponds with Article 30's objective of maintaining minority autonomy while contributing to larger societal interest.

Justice Surya Kant focussed that the Parliament's power is only confined to recognising national institutes and it cannot abolish AMU, BHU, and DU's status without a constitutional modification.¹⁶⁸ Justice Dipankar Datta remarked that AMU's inclusion in Entry 63 indicates it is not a minority institution but accepted that minority institutions can be nationally important, though they won't acquire AMU's unique status.¹⁶⁹ He highlighted that national institutions must be under Union authority, and minority control of AMU might harm this.¹⁷⁰ He determined that AMU's status can only be amended by constitutional, not legislative, amendment.

Justice Surya Kant's conclusion that only a constitutional amendment may alter the status of institutions like AMU reinforces the sanctity of parliamentary approval without weakening minority rights. By contrast, Justice Dipankar Datta's claim that national character excludes minority administration overlooks the coexistence of autonomy and state control, which is crucial in preserving the balance between public interest and cultural preservation. However, the majority's balanced approach recognises that the constitutional mandate of 'national importance' strengthens rather than dilution of the identity and contributions of minority institutions like AMU.

Now, after this judgement the case has been transferred to a regular small bench which will decide the minority status of AMU. Following the indicia provided under the present case in order to ascertain the minority character of a community for the purpose of Article 30.

¹⁶⁷ *Supra* note 14 at page.106 (Para 148).

¹⁶⁸ *Supra* note 14 at page.216 (Para 189).

¹⁶⁹ *Supra* note 14 at page.291 (Para 120).

¹⁷⁰ *Supra* note 14 at page.292 (Para 123).

IV

Conclusion

The rights conferred under the constitutional regime can be numerous but out of all those rights the protection of the minority rights represents the true picture of a thriving democracy. The balance between majority and minorities rights in order to give special protection to the minorities find its roots from the phrase 'equal protection of laws'. Minority rights can be classified under different categories but out of all those rights the most significant right is the right pertaining to minority educational institutions as it is crucial for preserving the cultural heritage and fostering national development. The Constitution under Article 30 guarantees the linguistic and religious minorities right to establish and administer the educational institutions of their own choice. Like any other facets of the constitution this right enshrined under Article 30 can't be read in isolation as it shares a symbiotic relationship with other parts of the Constitution. Through the interaction of these provisions from a constitutional lens we would understand the importance of this affinity in order to promote the preambular precepts.

The role of judiciary has been noteworthy in shaping the entire jurisprudence revolving around this right and resolving ambiguities within the ambit of this right. One such issue pertaining in the arena of minority educational institutions is regarding the minority character of Aligarh Muslim University. From 1967 to the landmark 2024 judgment, the judiciary has laid down clear indicia for determining minority status, ensuring a coherent jurisprudential framework. However, true progress lies in societal acceptance of pluralism and mutual respect, where communities work together to preserve and protect each other's rights. This approach, rooted in the constitutional philosophy of unity and integrity, ultimately strengthens the nation by leveraging education as a vehicle for collective advancement.