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**RTE and Educational challenges of Minorities**

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RTE an evolutionary step for provide the education to weaker section of society. Today there are many challenges in the recognition of minority and indigenou rights, in particular with respect to education. Children are likely to be particularly affected for two reasons. First, children are more vulnerable to having their rights violated and have less access to effective remedies. Second, they are generally perceived by their communities as representing the future, hence the main vehicles for cultural survival, potentially leading to some tensions.

**Keywords:** RTE, Minorities, Education, Challenges, Article 29, Article 30

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## INTRODUCTION

Article 29 refers to "minorities" in its marginal heading; it speaks/defines of "any section of citizens having a distinct language, script and culture".

"The Constitution of India used the word minority or its plural form in some Articles, 29 to 30 and 350A to 350B"

Article 30 speaks about two categories of minorities -- religious and linguistic - while Article 350 relates to linguistic minorities only

National Commission for Minorities Act has declared five communities -- Muslims, Christians, Sikhs, Buddhists and Parsis - as religious minorities.

### **Cultural and Educational Rights of Minorities Article 29: Protection of interests of minorities.-**

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

### **Article 30: 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 any 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.

From the careful perusal of the above two Articles, it is found that the expression minorities has been used at four places in the Constitution of India. It has been used in the head note of Article 29 and 30 and in sub clause (1) and (2) of Article 30. Minorities in Article 30 has been used in two senses, one based on religion and other based on language.

Relation between Articles 29 and 30 Articles 29 and 30 of the Constitution are grouped under the heading "Cultural and Educational rights". These both Articles protect and guarantee certain collective rights for the minorities to help them to preserve their language, religion and culture. These rights also contribute to preserve the rich diversity of the country and give minority a sense of security.

### **Together, they confer four distinct rights on minorities. These include the right of:**

- (a) Any section of citizens to conserve its own language, script or culture;
- (b) All religious and linguistic minorities to establish and administer educational institutions of their choice;
- (c) An educational institution against discrimination by State in the matter of State aid (on the ground that it is under the management of religious or linguistic minority; and

- (d) The citizen against denial of admission to any State-maintained or State-aided educational institution.

Article 29, especially clause (1) thereof, is more generally worded, whereas article 30 is focused on the right of minorities to (i) establish and (ii) administer educational institutions. Notwithstanding the fact that the right of the minority to establish and administer educational institutions would be protected by article 19(1) (g), the framers of the Constitution incorporated article 30 in the Constitution with the obvious intention of instilling confidence among minorities against any legislative or executive encroachment on their right to establish and administer educational institutions. In the absence of such an explicit provision, it might have been possible for the State to control or regulate educational institutions, established by religious or linguistic minorities, by law enacted under clause (6) of article 19.

Over the decades, the interplay of these two Articles has been the cause of intense debate, firstly, touching on issues such as secularism and secondly, the degree of control over private educational institutions maintained by the State or receiving aid out of State funds; on grounds only of religion, race, caste, language or any of them. Further this chapter discusses judicial approach relating to each Sub Clause of Articles 29 and 30. Subsequently, the researcher has discussed the judicial interpretation relating to the relation between Articles i.e. 29 and 30. Article 29(1) deals with right of any section of the citizens residing in India to preserve their language, script or culture. In order to invoke Article 29(1), all that is essential is that a section of the citizens, residing in India should have a distinct language, script or culture of its own. If so, then they will have the right to conserve the same.

Article 29(2) prohibits discrimination in matters of admission into educational institutions on grounds only of religion, race, caste, language or any of them. This provision guarantees the rights of individual irrespective of the community to which he/she belongs.

Article 30 (1) provides that all religious and linguistic minorities have the right to establish and administer educational institutions of their choice. Article 30(2) prevents States from making any discrimination against any educational institution in granting aid on the ground that it is managed by a religious or linguistic minority.

The implementation of international legal frameworks for the right to education of minorities and indigenous peoples differs in many respects.

In line with the above discussions, the right to education of minorities makes a larger space for taking part in the broader society, while education for indigenous children emphasizes separateness and self-government. Minorities. International standards related to minorities tend to consider culture as one aspect of the identity of individuals belonging to these minorities. As a result, minorities' autonomy to manage their institutions is strictly related to the protection of their cultural, religious or linguistic identity – while for indigenous peoples self-government applies to all spheres. Because minority rights are individual, a number of global and regional instruments containing provisions on the right to education consistently place under the scope of the rights of individuals, in particular parents, the possibility to manage and choose educational institutions for children. Consequently, while recognizing the right of minorities to manage their own educational institutions, this right is framed by several conditions. It is limited to the institution itself with due respect to standards applicable in the broader society; it should remain optional; and it does not imply any financial obligation on states. For example, the UNESCO Convention Against Discrimination in Education, in its Article 2, provides for the establishment of separate educational systems for religious or linguistic reasons, provided

that: 'attendance at such schools [be] optional' and education respects national standards. These educational institutions are understood as belonging to the private sphere, hence not entitled to public funding as of right. First World War peace treaty provisions specified that the minorities' right to establish and manage institutions was 'at their own expense'. This has been reiterated in the European context. While recognizing the right to freedom of thought and religion including teaching, the European Convention on Human Rights (ECHR) does not provide for the right to mother tongue education. The European Court has clearly stated that this right could not be inferred from existing provisions, as several studies have shown. In an important case regarding language education in Belgium, the Court has underlined that the Convention does not require that, in the sphere of education or teaching, states respect parents' linguistic preferences. This right has only been recognized to some extent in relation to continuation of education in the mother tongue when it had been available in the past. Furthermore, there is neither an obligation on states parties to subsidize private educational establishments, nor to create or subsidize schools which are in conformity with particular religious or philosophical convictions. However, if providing subsidies, the state cannot discriminate between various types of schools. This approach is reflected in other international instruments adopted by the Council of Europe. The FCNM, for example, recognizes the right for persons belonging to a national minority to set up and manage their own private educational establishments, but stipulates that the exercise of this right shall not entail any financial obligation for states parties

#### Educational challenges

Challenges associated with separate education systems. The provision of culturally sensitive education for children of minorities and indigenous children can lead to the development of separate education systems. In these systems, children may have better opportunities to learn, think and thrive in an environment suited to their cultural needs. At the same time, it may reinforce separateness and has been used in some extreme cases to carry out segregation policies. Challenges associated with separate education systems therefore take place both at micro and society level. One issue is the fact that identity has several facets. Individuals have various identities such as gender, disability, etc., which can lead them to feel connected to one group or another. By reinforcing a sense of cultural belonging, culturally sensitive education privileges a specific aspect of individual identity. As a result, it contributes to immobilizing the boundaries of a certain group and can in some instances limit the ability of individuals to opt out. Connected to this topic is the

question of dissent within a community. In the context of education, this issue takes on a particular significance. Education should help challenge and re-examine social norms if these do not respect human rights, such as gender biases for instance. At the society level, the strengthening of groups has significant repercussions. While cultural bonds can create solidarity and opportunities, they can also perpetuate social exclusion. This is especially true for poorer groups. Theories of social capital, as presented in particular by political scientist Robert Putnam, argue that the existence of networks based on shared values creates opportunities for individuals and communities. However, strong cultural ties within one group are also likely to reduce cooperation among groups. As some studies have pointed out, social capital can hinder the economic and social development of groups that are isolated or parochial. Accordingly, in developing separate education systems for children of minorities and indigenous peoples, the risk of aggravating social exclusion should be addressed. As mentioned

above, one of the challenges in the existence of different groups within a state is the risk of fragmentation. In some cases, fragmentation has led to ethnic and international conflicts. States' cautiousness in recognizing minority and indigenous rights stems from the fear that specific rights could exacerbate divisions between groups. These could in turn pave the way for secessionist claims. Education contributes to forming a common cultural identity for group members. It thus plays an important role in reinforcing various cultural identities. However, as will be seen below, education also bears the potential to help overcome these biases and promote peace and stability.

In conclusion, there are many challenges in the recognition of minority and indigenous rights, in particular with respect to education. Children are likely to be particularly affected for two reasons. First, children are more vulnerable to having their rights violated and have less access to effective remedies. Second, they are generally perceived by their communities as representing the future, hence the main vehicles for cultural survival, potentially leading to some tensions.

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