

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 1

2022

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Protecting the Rights of Minorities under International Law: An Overview of the Indian Context

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ABSTRACT

The concept of majority rule and respect for minority rights is demonstrated in several Constitutions of the world. Today, democracy is mostly a method of government of the people that is ruled by the people. The issue of minority rights is at the center of the concept of civic rights. Minority protection, thus, operates on the hypothesis that religious, cultural, and linguistic affiliations are essential features of the very notion of a civic, just society. International minority rights speak to the wrongs that international law itself produces by organizing international political reality into a legal order. This article focuses on the uncertain effect of religious autonomy in India and the outcome of democracy in the country.

The Constitution of India does not define the word 'Minority' and only refers to 'Minorities' and speaks of those 'based on religion or language'. The research paper aims at understanding the ambit of the term "minority" and the rights of minorities under Article 29 & 30 of the Indian Constitution. The research paper aims to answer the question of the extent of autonomy granted to minority education institutions to protect and preserve their religion and culture. The Supreme Court, through various cases, has laid down the criteria and ambit to be covered under Article 30 granting minority community the right to establish and administer educational institutions for the betterment of their community. The objective of Article 30 is to prevent the majority to make legislation which takes away minority rights. The intervention of Supreme Court was due to the vulnerable position of minorities in the society. This article also explores the difficulties inherent in the conceptualization, legal definition, and use of the term "minorities," framing these issues in the context of global efforts toward human rights realization. This article urges laying aside the term "minority" as both a label and a concept and conceptualizing the mission in terms of collective human dignity protection, with this concept's deep roots in the Universal Declaration of Human Rights (UDHR). This might well be linked to the urgently needed operationalization of the Responsibility to Protect (R2P).

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Keywords: *The rights of minorities; international legal framework; cultural rights; religious rights; constitutional law; democracy.*

I. INTRODUCTION

In any country, the faith and confidence of the minorities in the functioning of the State in an impartial manner is an acid test of it being a just State.

Justice Rajendra Sachar

Today human right is of great importance. The existence of different minorities such as lingual, ethnic, racial, and religious minorities with different tendencies derived from different civilizations and cultures has brought about social and cultural varieties and differences in each country and also the emergence of this variety has resulted in the development of variety in a specific culture and ceremony in different countries. On the other hand, each country as a member of international society has to observe norms and principles accepted by international society. In other words, although preparation of constitution of each country depends on exclusive qualification of the country's people and government, it does not mean they are free in each law because international legitimacy of each country's government and constitution depends on observation of the accepted principles and the governing rules in international law. The subject of minorities was first introduced in Vienna Congress and today different minorities live in different countries. In international documents and treaties, a precise definition of minority has not been provided. India consisting of multi-culture and diversity in its society has given rise to many minorities calling it a home. Due to the history of heritage from different cultures, the land is home to many religions, languages, scripts, etc. However, there has been a need to protect the interest of the minorities due to their vulnerable position in the society. There has been a feeling of insecurity among minorities which lead to certain rights granted to them. In order to achieve unity and maintain diversity, the fears of minorities were laid to rest when Article 29 & 30 of the Indian Constitution were granted to them to safeguards their community, preserve and protect their religion, culture, language, scripts and heritage. The basic aim of these articles is not only to provide a better structure of education for the minorities, but also to help us achieve secularism in the true sense.

There is no single definition of minority on which all scholars and international institutions agree although a lot of attempts have been made by the United Nations and specialized organizations to present a precise and comprehensive definition of minority. In the UN Secretary General's note on December 27, 1949 was written: (Although it is academically

difficult to present a really precise definition of minority...in fact, “minority” is used in a more limited sense today. In the present, it is commonly applied to a specific group of society that has been distinguished from a superior group living in the country), (Arjmand, 1998) pp. 13 - 20. Article 27 of International Treaty of civil and political rights has not pointed out legal limitations in minorities’ enjoying the right of their cultural identity; however, general viewpoints in number 23 of Human Rights Committee point out: (None of the laws supported in article 27 must be exercised in a way or to the extension that is not in harmony with the other articles of the treaty), (Beigzadeh, 2000) pp. 20-22. Therefore, governments are not allowed to violate the other rights of minorities such as their right in enjoying non-discriminatory policies in order to take measures to support minorities to maintain their identity. In Treaty of Versailles, the committee supreme council established supporting minorities in new countries. All new substituting states had to sign minority rights treaties as a prerequisite to be diplomatically accepted. Although the new states were known to be official, they could not come into being prior to signing the final peace treaty.³

II. RIGHTS OF MINORITIES IN INDIA

“In law a man is guilty when he violates the rights of others. In ethics he is guilty if he only thinks of doing so.”

-Immanuel Kant

(A) Who is a minority?

The Indian Constitution mentions two types of minority communities under Article 30 i.e., Religious and Linguistic. While categories are mentioned, the Constitution fails to define the term “minority.” However, certain points from Article 29(1) that “anyone with a distant language, script or culture of its own” can conserve the same as rights of minorities. Although Article 29(1) lays down certain guidelines on determining minority communities, cases such as *Islamic Academy of Education v. State of Karnataka*⁴ have taken into consideration other aspects such as economic welfare in order to determine whether a community comes under the ambit of minority or not.

In the case of *A.M Patroni v. Kesavan the Kerala High Court*⁵ held that “any linguistic or

³ Mihandoost, Fatemeh & Babajanian, Bahman. (2016). The Rights of Minorities in International Law. *Journal of Politics and Law*. 9. 15. 10.5539/jpl.v9n6p15.

⁴ *Islamic Academy Of Education And ... vs State Of Karnataka And Others* on 14 August, 2003, , <https://indiankanoon.org/doc/1978528>

⁵ *Aldo Maria Patroni And Anr. vs E.C. Kesavan And Ors.* on 1 October, 1964, , <https://indiankanoon.org/doc/1393122>

religious community is considered a “minority” if the community population of 50% of the total population.” However, the judgment did not explicitly mention the total population of state or country was to be considered, which was later addressed in the case of *TMA Pai Foundation v. State of Karnataka*⁶. In this case, an 11 judge’s bench held that while determining minority compared to total population, the total population of state has to be considered to determine whether a community qualifies as a minority or not. Section 2(c) of the Minorities Act recognises Christians, Muslims, Buddhists, Sikhs and Zoroastrians as 5 religious minorities. In the case of *A.S.E Trust v. Director of Education*⁷, it was highlighted that “religious minority” should be restricted to those minorities such as Muslims, Buddhists, Sikhs, Christians, Jains, etc. whose identity has been maintained separately from the majority i.e., Hindus.

(B) What are the minority rights in India?

There has been moral and political theory in the 17th century that man has certain basic rights which the state needs to take care of to have an effective democratic life. Part 3 of the Indian Constitution provides for the basic fundamental rights. Article 15, 16, 19, and 29 are some fundamental rights guaranteed to the citizens.

- **Article 15** prohibits discrimination on grounds of religion race cast sex or place of birth.
- **Article 17** Prohibits untouchability.
- **Articles 25 to 30** preserve the right of minorities on grounds of religion.
- **Article 25** provides the right to practice any religion.
- **Article 26** allows religious institutions to be opened.
- **Article 27** provides that no person shall be forced to pay any taxes which is not mandatory.
- **Article 28** provides that there shall be no religious instruction to be followed in any particular educational institutions.
- **Article 29** provides that no citizen shall be denied admission in any educational institution on grounds of religion race caste.

⁶ T.M.A.Pai Foundation & Ors vs State Of Karnataka & Ors on 31 October, 2002, , <https://indiankanoon.org/doc/512761>

⁷ Arya Samaj Education Trust, Delhi ... vs The Director Of Education, Delhi ... on 17 November, 1975, , <https://indiankanoon.org/doc/1368983>

- **Article 30** provides that minority shall not be prohibited from any educational institutions.

(C) Rights of a Minority

Along with the basic fundamental rights granted to all the citizens of the country, there are certain additional rights that are laid down to protect the interest of minorities. Article 29 of the Indian Constitution ensures that people residing in the country have a right to preserve their language, script and culture and no educational institutions run by the State or other institutions which receive their aid from the State shall discriminate on the basis of caste, race and creed. Due to reservation and special provisions granted to minority communities many have argued that such provisions are “cushioning.” However, Justice Khanna, in the case of *St. Xaviers College v. State of Gujarat & Anr*⁸, stated that such provisions are imperative in order to avoid the feeling of first-class citizens and second-class citizen among communities within the country. The additional rights granted to minorities are to protect, preserve and uphold the uniqueness of their culture. The objective behind the same is to enable minority communities to protect the characteristics of their culture which differentiates them from the others.

(D) Relationship between Article 29 and Article 30

Article 29 of the Indian Constitution aims at protecting the language, script and culture of minority communities where Article 30 aims at protecting the rights of minority to establish and administer educational institutions. While both articles aim at protecting rights of minorities, Article 29 makes an attempt at defining and explaining the term minorities. In the case of *St. Xaviers College v. State of Gujarat & Anr*⁹, the court held that Article 29 and 30 are not mutually exclusive. Both the Article deal with distinct matters is can be considered as supplements to each other while dealing in a case of cultural rights of minorities. While Article 29 aims at explaining the ambit of term minority, Article 30 aims at enabling children of minority the right to education without any discrimination and to access the world fully equipped.

(E) Are minority rights sufficiently protected?

The continuous violence and crimes against the minorities that are Muslims, Sikhs, and Christians have been popping up on daily in India. This issue came up in the eighth session of the UN forum at Geneva. It was held in that section that the rights of minorities are in virtual

⁸ The Ahmedabad St. Xaviers College ... vs State Of Gujarat & Anr on 26 April, 1974, , <https://indiankanoon.org/doc/703393>

⁹ The Ahmedabad St. Xaviers College ... vs State Of Gujarat & Anr on 26 April, 1974

collapse. The Supreme Court had also stated that the majority of the arrest and detention is illegal in *Ram Narayan Agarwal vs State of UP*. About 1.8 million people who are minority communities are tortured in police custody every year. The word murder of minorities has been replaced by the term encounter killings. Torture have increased to such a huge extent that it questions the credibility of the rule of law and criminal justice.

The Indian Constitution does not define the term minority but it defines minorities based on religion and language. Their rights that have been laid down in part 3 of the Constitution are legally enforceable and the rights which have been laid down in part 4 of the Constitution are not legally enforceable by law. The Government of India set up the *National Commission on minorities in 2005*. Jains joined the minority list in 2014. The issues of minorities are dealt with by the Ministry of minority affairs and ministry of home affairs in the Government of India. No doubt the constitution of India needs an amendment to take care of violence against minorities especially Muslims. There is no specific protection for minorities in the Indian Constitution. The judiciary, police, and prosecution are not at all sensitized to this issue. **Rajendra Sachar committee 2005** identified the disabilities that the Muslims in India face. The Christians and Sikhs are much smaller victims but they are still victims.

(F) Judgments

1. *Re Kerala education bill*- There was an education bill that was introduced in the Kerala assembly by the education minister, Professor Joseph Mundasseri. Several provisions of the bill seemed to challenge the constitutional validity. Therefore when the bill was reserved for the consideration of the president, he used the power under Article 143 of the constitution and referred the case to the supreme court for its opinion. The Supreme court's opinion in this was considered to be one of the most significant steps taken to protect the rights of minorities in India.

2. *Champakam Dorairajan vs the State of Madras*- This case was regarding the admission of students to medical and engineering colleges of Madras. The province of Madras was having an issue with the order of fixation of the number of seats for particular communities. The Supreme Court, in this case, rejected reservation for minorities on the communal ground.

3. *St. Stephen's College vs University of Delhi*- Supreme Court, in this case, held that Saint Stephen's College is a minority institution which is entitled to protection under Article 30(1). The decision was taken by the court keeping in view the history of the establishment of the college.

4. S.Azeez basha vs Union of India- The 1965 amendment was challenged in this case before the constitutional bench of the Supreme Court of India. This is one of the most controversial judgments which raised doubt in the minds of Minorities about the faith of institutions.¹⁰

III. MINORITIES UNDER INTERNATIONAL LAW

(A) Who are minorities under international law?

Adopted by consensus in 1992, the United Nations Minorities Declaration in its article 1 refers to minorities as based on national or ethnic, cultural, religious and linguistic identity, and provides that States should protect their existence. There is no internationally agreed definition as to which groups constitute minorities. It is often stressed that the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (including that individuals must identify themselves as members of a minority).

The difficulty in arriving at a widely acceptable definition lies in the variety of situations in which minorities live. Some live together in well-defined areas, separated from the dominant part of the population. Others are scattered throughout the country. Some minorities have a strong sense of collective identity and recorded history; others retain only a fragmented notion of their common heritage. The term minority as used in the United Nations human rights system usually refers to national or ethnic, religious and linguistic minorities, pursuant to the United Nations Minorities Declaration. All States have one or more minority groups within their national territories, characterized by their own national, ethnic, linguistic or religious identity, which differs from that of the majority population.

According to a definition offered in 1977 by Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is:

*A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.*¹¹

¹⁰ Minorities in India : rights and legal status - iPleaders, <https://blog.iplayers.in/minorities-in-india-rights-and-legal-status>

¹¹ 1 E/CN.4/Sub.2/384/Rev.1, para. 568

(B) Are indigenous peoples considered to be minorities?

Similarly to minorities, there is no universally accepted international definition of indigenous peoples. Guidance in this regard can be obtained, for instance, from the work of the Working Group on Indigenous Populations, the provisions of Convention No. 169 of the International Labour Organization (ILO) and the contents of the United Nations Declaration on the Rights of Indigenous Peoples. Various sources cite the following characteristics, either alone or in combination: indigenous peoples are descendants of the peoples who inhabited the land or territory prior to colonization or the establishment of State borders; they possess distinct social, economic and political systems, languages, cultures and beliefs, and are determined to maintain and develop this distinct identity; they exhibit strong attachment to their ancestral lands and the natural resources contained therein; and/or they belong to the non-dominant groups of a society and identify themselves as indigenous peoples.

While indigenous peoples can claim minority rights under international law, there are United Nations mandates and mechanisms dedicated specifically to protecting their rights. In its work, the United Nations has applied the principle of self-identification with regard to indigenous peoples and minorities. In practical terms, a number of connections and commonalities exist between indigenous peoples and national, ethnic, linguistic and religious minorities. Both groups are usually in a non-dominant position in the society in which they live and their cultures, languages or religious beliefs may be different from the majority or the dominant groups.

Both indigenous peoples and minorities commonly wish to retain and promote their identity. Situations can be found on the ground where an indigenous group could find itself in a minority-like situation and, equally, some minorities have strong and long-standing attachments to their lands and territories as do indigenous peoples. Minorities, however, do not necessarily have the long ancestral, traditional and spiritual attachment and connections to their lands and territories that are usually associated with self-identification as indigenous peoples.

IV. MINORITY RIGHTS PROTECTION UNDER INTERNATIONAL HUMAN RIGHTS LAW**(A) Main sources of minority rights**

In 1992 the General Assembly adopted the United Nations Minorities Declaration by consensus (resolution 47/135). It is the main reference document for minority rights. It grants to persons belonging to minorities:

- Protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (art. 1);
- 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 (art. 2(1));
- The right to participate effectively in cultural, religious, social, economic and public life (art. 2 (2));
- The right to participate effectively in decisions which affect them on the national and regional levels (art. 2 (3));
- The right to establish and maintain their own associations (art. 2 (4));
- The right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across State borders (art. 2 (5)); and
- The freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (art. 3).
- States are to protect and promote the rights of persons belonging to minorities by taking measures to: Ensure that they may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law (art. 4 (1));
- Create favorable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4 (2));
- Allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (art. 4 (3));
- Encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (art. (4));
- Allow their participation in economic progress and development (art. 4 (5));
- Consider the legitimate interests of minorities in developing and implementing national policies and programmes, and international programmes of cooperation and assistance (art. 5);
- Cooperate with other States on questions relating to minorities, including exchanging information and experiences, to promote mutual understanding and confidence (art. 6);
- Promote respect for the rights set forth in the Declaration (art. 7);
- Fulfil the obligations and commitments States have assumed under international treaties and agreements to which they are parties.

- Finally, the specialized agencies and other organizations of the United Nations system shall also contribute to the realization of the rights set forth in the Declaration (art. 9).

In 2005, the Working Group on Minorities adopted a commentary intended to guide the understanding and application of the United Nations Minorities Declaration.¹²

The **International Covenant on Civil and Political Rights** and, in particular, article 27 inspired the contents of the United Nations Minorities Declaration. It states that:

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 practice their own religion, or to use their own language.

The **International Covenant on Economic, Social and Cultural Rights** mentions explicitly in article 2 (2) that “*the States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*”

General comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health states that health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, including ethnic minorities. Furthermore, all health facilities, goods and services must be culturally appropriate, for instance respectful of the culture of minorities. “*States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including [...] minorities, to preventive, curative and palliative health services*”.

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination defines discrimination as “*any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.*”

Article 30 of the Convention on the Rights of the Child provides that “*in those States in*

¹² See chap. I, sect. C, above. In addition, the Working Group considered the Minority Profile and Matrix, which provides a checklist of issues and measures based on the provisions and principles contained in the United Nations Minorities Declaration and the Commentary (E/CN.4/Sub.2/AC.5/2006/3).

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”.

The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by General Assembly resolution 60/147 of 16 December 2005, states that “restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.” This principle could be broadly interpreted to include the right to have one’s status as indigenous person or person belonging to a minority restored, in particular where this is provided for under national legislation and if such status is lost as a consequence of displacement.¹³

(B) Principles of Minority Rights

In international law, there are some principles that explicitly express minorities and protect them in a specific way. These principles emphasize the point that all people including members of ethnic, racial, and religious minorities have the same basic rights as the other citizens of the society and must be able to enjoy these rights without discrimination. Some of the standard individual rights have a specific significance for ethnic and religious minorities. Among these rights are social and cultural freedoms, freedom of assembly, freedom of speech, right for education and teaching in native language, freedom of organization, and the other principles mentioned in international rules.

Although the words “minority” and “ethnicity” have not been mentioned in the UN charter and the universal Declaration of Human Rights, in enforcing parts 3 and 4 of the first article and also articles 55 and 65 of the UN charter that considers observation of human rights and basic freedoms for all people without discrimination to race, gender, language, or religion, texts and documents have been ratified (Naserzadeh, 1951). They will be mentioned briefly below.

(C) The Problems of Minorities

The fact that minority rights have been formulated and considered individually rather than

¹³ A brief history of transgender issues the Guardian, <https://www.theguardian.com/lifeandstyle/2010/jun/02/brief-history-transgender-issues>

socially is reflected in the current mechanism in the world. None of these rights has legal obligation and they are frequently open to people in minorities, not to minorities themselves (Pejic, 1997). p. 666-685. Once more the international treaty of civil and political rights is the starting point. Including ignoring the rights of minorities can be noted: unjustifiable arrests, unfair trials, executive lawlessness, suppression of free speech and undue domination of minorities (John, 2011).

The only obligatory governing procedure is the duty of countries in submitting periodical reports to Human Rights Committee (HRC) according to the criterion they have adopted to enforce the mentioned treaty (Phalsafi, 1996). The political consequences of this event are not ineffective, but they have no instant effect “on the current scene.” Today the procedure of complaining inside a country faces lack of using article 41. According to political considerations, it is unlikely to happen soon.

It seems that procedure of submitting individual complaints according to the first optional protocol to this treaty has been accepted more widely since the number of countries that have accepted this treaty has risen. Human Rights Committee has been successful at explaining the so-called contradiction of article 27 of the treaty, but its effects, if there are any, have been indirect toward minorities, except that the effectiveness of countries on committees’ viewpoints depends on their political requests and legal culture because committee’s decisions have no legal obligation (Skrentny, 2009). The well-known case against Canada can be an example of this kind, the case of Sandra Lovelace, a red-skinned from Maliseet. After marrying a non-red-skinned, she lost her rights as a red-skinned following Canada’s red-skinned laws; therefore, her right to live in “Tubik” was delayed. When referring to have her delayed rights after getting divorced, she was expelled. A question raised in this case was whether she belonged to Maliseet red-skinned people or not. The committee concluded that denying her identification as one of the red-skinned people in Maliseet was unfair. Eventually, Canada modified the red-skinned law. Minorities, of course in a limited way, enjoy support of various international documents, the most explicit of which is 1960 Convention of UNESCO against discrimination on education.

In addition, International Convention on the Elimination of all forms of Racial Discrimination (CERD) held in 1965 and Convention of 1948 on elimination and punishment of those who commit genocide have considered protecting minorities although they have not mentioned minorities explicitly. Similarly, a great number of social rights in Declaration of 1978 of UNESCO on race and racial prejudices and Declaration of 1981 of the United Nations Organization on elimination of any kind of prejudice and discrimination based on religion and

beliefs have been mentioned. This general scheme of attempts to overcome problems to determine a legal obligatory definition of minorities from among the other purposes has been supported to achieve two goals. One is that it shows lack of definition definitely keeps open an extensive field for interpretations of minority and tendency to crime in declarations on a specific group whether it belongs to minorities or it actually does not exist at all (Thornberry, 1991).

A definition must help clarify ambiguities and express minority rights in international law. International organizations have the responsibility of controlling the observation of minority legitimate and basic freedoms and rights by ratifying complementary and obligatory regulations. After World War (I) and before the establishment of UN, an international system was set up to protect minorities rights and in the treaties held between governments, it was prescribed that governments do not exercise any discrimination on minorities and give them the right to use their own language and religion (Zolein, 1995). The second goal is to clarify legal and political obstacles in definition of minority and explain the conditions in which minorities live. Presenting a comprehensive definition is impossible. However, it must not discourage and prevent attempts to define minorities precisely to hold legal tools relevant to their rights whenever possible.¹⁴

V. CONCLUSION

Today, different organizations and institutions on protecting minority rights have been established. To protect minorities, three elements of connection, cooperation, and unity must be taken into account. In fact, since there is no comprehensive definition, we must investigate the common points between different people so that we can protect minority rights. Under Indian context, it can be concluded that the Supreme Court has made sincere efforts in granting minorities the rights they deserve. An effort has been made to protect as well as preserve both religious as well as linguistic minorities. The lack of definition of the term “minority” has left room for question due to lack of clarity. The research also suggests that the scope of religious minority cases is quite restricted as compared to linguistic minority cases which leaves a sense of insecurity. Since minorities are in a more vulnerable position in the society it is important to protect and preserve the community. Although there has been great development in this particular area there is still scope for improvement and a long way ahead of us.

Today, minorities are not supported, but they are also sometimes bothered and ignored. These

¹⁴ Mihandoost, Fatemeh & Babajanian, Bahman. (2016). The Rights of Minorities in International Law. *Journal of Politics and Law*. 9. 15. 10.5539/jpl.v9n6p15.

unequal policies have resulted in discrimination of different rights in society. If minority rights are observed according to Constitution, contradiction of minority rights will not exist and the double flexibility of Iranian legislators on this subject compared to international obligatory documents and articles of treaties controlling them and international common law will be evident.
