CHAPTER IV

Constitutional and other legal provisions safeguarding the Rights of the Minorities

“Despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration, the Government of India attaches the highest importance to the enforcement of the safeguards provided for the minorities and is of firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all safeguards provided for the minorities in the Constitution, in the Central and State Laws and in Government policies and administrative schemes enunciated from time to time.”

(Resolution of MHA notified vide MHA Notification No. 11-16012/2/77-NID dated 12.01.1978)

----Original Charter of Minorities Commission.

In 1947, the system for the protection of minorities, as groups, was established under the League of Nations. This was replaced by the Charter of the United Nations and the Universal Declaration of Human Rights. These instruments were based on the protection of individual human rights and freedoms and the principles of non-discrimination and equality. The view was that if the non-discrimination provisions were effectively implemented, special provisions for the rights of minorities would not be necessary. It was very soon evident, however, that further measures were needed in order to better protect persons belonging to minorities from discrimination and to promote their identity.
Discrimination has been prohibited in a number of international instruments that deal with most, if not all, situations in which minority groups and their individual members may be denied equality of treatment. Discrimination is prohibited on the grounds of; race, language, religion, national or social origin, and birth or other status. Important safeguards from which individual members of minorities stand to benefit include recognition as a person before the law, equality before the courts, equality before the law, and equal protection of the law, in addition to the important rights of freedom of religion, expression and association.

4.1 Rights of Minorities under International Instruments.

Non-discrimination provisions are contained in the United Nations Charter of 1945 (Articles. 1 and 55), The Universal Declaration of Human Rights of 1948 (Article 2) and The International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 1966 (Article 2). Such provisions also appear in a number of specialized international instruments, including: ILO Convention concerning Discrimination in Respect of Employment and Occupation No. 111 of 1958 (Article1); International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (Article 1); UNESCO Convention against Discrimination in Education of 1960 (Article 1); UNESCO Declaration on Race and Racial Prejudice of 1978 (Articles 1, 2 and 3); Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief of 1981 (Article 2); and the Convention on the Rights of the Child of 1989 (Article 2).

To this end, special rights for minorities were elaborated and measures adopted to supplement the non-discrimination provisions in international human rights instruments.

Special rights are not privileges but they are granted to make it possible for minorities to preserve their identity, characteristics and traditions. Special
rights are just as important in achieving equality of treatment as non-discrimination. Only when minorities are able to use their own languages, benefit from services they have themselves organized, as well as take part in the political and economic life of States can they begin to achieve the status which majorities take for granted. A difference in the treatment of such groups, or individuals belonging to them, is justified if it is exercised to promote effective equality and the welfare of the community as a whole. This form of affirmative action may have to be sustained over a prolonged period in order to enable minority groups to benefit from society on an equal footing with the majority.

Several international human rights instruments refer to national, ethnic, racial or religious groups and some include special rights for persons belonging to minorities. These include: the Convention on the Prevention and Punishment of the Crime of Genocide (Article II); the Convention on the Elimination of All Forms of Racial Discrimination (Articles 2 and 4); the International Covenant on Economic, Social and Cultural Rights (Article 13); the International Covenant on Civil and Political Rights (Article 27); the Convention on the Rights of the Child (Article 30); the UNESCO Convention against Discrimination in Education (Article 5); the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; and the UNESCO Declaration on Race and Racial Prejudice (Article 5).

Article 27 of the International Covenant on Civil and Political Rights

The most widely-accepted legally-binding provision on minorities is Article 27 of the International Covenant on Civil and Political Rights, which 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

96 United Nations document E/CN.4/52, Section V.
culture, to profess and practice their own religion, or to use their own language”.

Article 27, of the Covenant grants persons belonging to minorities the right to preserve their ethnic, religious or linguistic identity. Although Article 27 refers to the rights of minorities in those States in which they exist, its applicability is not subject to official recognition of a minority by a State.

Article 27 does not call for special measures to be adopted by States, but States that have ratified the Covenant are obliged to ensure that all individuals under their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected.97

**UN Declaration of 18th December 1992**

In order to strengthen the cause of the minorities, the United Nations promulgated the “Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities” on 18th December 1992 proclaiming that:

“States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of their identity.”

The only United Nations instrument which addresses the special rights of minorities in a separate United Nations document is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.98 The text of the Declaration, while ensuring a balance between the rights of persons belonging to minorities to maintain and develop their own

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97 General Comment of the Human Rights Committee 18 (37). For the full text see United Nations Document HRI/GEN/1 of 4 September 1992
98 Adopted by the General Assembly on 18 December 1992 (General Assembly resolution 47/135).
identity and characteristics and the corresponding obligations of States, ultimately safeguards the territorial integrity and political independence of the Nation as a whole. The principles contained in the Declaration apply to persons belonging to minorities in addition to the universally recognized human rights guaranteed in other international instruments.99

The Declaration grants to persons belonging to minorities:

- Protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (Article 1);
- the right to enjoy their own culture, to profess and practice their own religion and to use their own language in private and in public (Article 2.1);
- the right to participate in cultural, religious, social, economic and public life (Article 2.2);
- the right to participate in decisions which affect them on the national and regional levels (Article 2.3);
- the right to establish and maintain their own associations (Article 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 (Article 2.5); and
- the freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (Article 3).

States are to protect and promote the rights of persons belonging to minorities by taking measures:

- to create favourable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (Article 4.2);

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99 See article 8 of the Declaration.
• to allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (Article 4.3);
• to 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 (Article 4.4);
• to allow their participation in economic progress and development (Article 4.5);
• to consider legitimate interests of minorities in developing national policies and programmes, as well as in planning and implementing programmes of cooperation and assistance (Article 5);
• to cooperate with other States on questions relating to minorities, including the exchange of information and experiences, in order to promote mutual understanding and confidence (Article 6);
• to promote respect for the rights set forth in the Declaration (Article 7);
• to 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 are encouraged to contribute to the realization of the rights set forth in the Declaration (Article 9).

4.2 Minority Rights under Indian Legal provisions:

Recognition and protection of minority rights in India was hardly an issue prior to the starting of twentieth century because of the hegemony of minority over majority and ruling class minorities’ unwillingness to interfere within the private, personal and religious matters of either group. All people had freedom to be governed by their religious and customary laws within their private affairs. The issue became relevant during early twentieth when Britishers gradually started power sharing with the Indian natives; and minorities
especially Muslims led by Jinnah suspected their protection in the hands of majority Hindus. To address such fear Britishers along with certain Princely States made special provisions for minority representation in legislature and government jobs. The Separate electorate system introduced by Britishers had two fold objectives – (1) to mobilize several communities especially of minorities in India to participate in power sharing; (2) to prevent the strong nationalism growing under the single umbrella of Congress.

The separate electorate system whereas criticized by congress; minorities led by Jinnah welcomed this model. Dr. B. R. Ambedkar, a dalit leader also demanded for separate electorate system for dalits an oppressed category of Hindu society. However after an assurance given by congress and Mahatma Gandhi that in independent India special provisions shall be made for economic and social minorities he relinquished his demand of separate electorate for dalits.

**4.2.1 Constitutional Assembly Stand on Minority Rights:**

Nation building is a dynamic process of integrating a plurality of social groups into a common framework of identity and loyalty in a political community. While convincing few representatives in constituent assembly who had created a little disagreement about the need for pluralism and special provisions for minorities Dr. B.R. Ambedkar said:

“To diehards who have developed a kind of fanaticism against minority protection I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the State. The history of Europe bears ample and appalling testimony to this fact. The other is that the minorities in India have agreed to place their existence in the hands of the majority. In the history of negotiations for preventing the partition of the Ireland, Redmond said to Carson, “Ask for any safeguard you like for the
Protestant minority but let us have a United Ireland.” Carson’s reply was “Damn your safeguards, we don’t want to be ruled by you.” No minority in India has taken this stand. They have loyally accepted the rule of the majority, which is basically a communal majority and not a political majority. It is for the majority to realize its duty not to discriminate against minorities. Whether the minorities will continue or will vanish must depend upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish.”

Similar view was also expressed by Govind Ballabh Pant. With this objective the Constituent Assembly set up an Advisory Committee under the chairmanship of Sardar Patel on the subject of Fundamental Rights including rights of minorities, with the twin objectives of eliminating the chance of religion exploiting the State and vice-versa. The Advisory Committee appointed five sub-committees. One was the minorities sub-committee headed by H.C. Mukherjee a Christian leader from Bengal. Though Initially the Advisory Committee recommended, as a general rule, that seats for the different recognized minorities like Muslims, Scheduled Castes, Sikhs, Anglo Indians, Indian Christians, Parsis and tribals living in the plains of Assam should be reserved in different legislatures on the basis of their population; at a later stage it rejected separate electorates of any kind, as in the past they had sharpened communal differences and led to the partition of the country.

4.2.2. The Sub-Committee Report on Minorities: - This subcommittee after thorough analysis of present future aspect of minorities and country prepared an interim report which dealt with the question of Fundamental Rights from the point of view of minorities. The report recommended –

1. All citizens are entitled to use their mother tongue and the script thereof, and to adopt study or use any other language and script of their choice.
2. Minorities in every unit shall be adequately protected in respect of their language and culture, and no government may enact any laws or regulations that may act oppressively or prejudicially in this regard.

3. No minority, whether of religion, community or language shall be deprived of its rights or discriminated against in regard to the admission into state educational institutions, nor shall any religious instruction be compulsorily imposed upon them.

4. Notwithstanding any custom, law, decree or usage, presumption or terms of dedication, no Hindu on grounds of caste, birth or denomination shall be precluded from entering in educational institutions dedicated or intended for the use of the Hindu community or any action thereof, and

5. No disqualification shall arise on account of sex in respect of public services or professions or admission to educational institutions saves and except that this shall not prevent the establishment of separate educational institutions for boys and girls.

The Advisory Committee accepted the recommendations partially and recommended the following clause to the Constituent Assembly:

1. Minorities in every unit shall be protected in respect of their language, script and culture, and no laws or, regulations may be enacted that may operate oppressively or prejudicially in this respect.

2. No minority whether based on religion, community or language shall be discriminated against with regard to admission into state educational institutions, nor shall any religious instruction be compulsorily imposed on such minority.

3. (a) All minorities whether based on religion, community or language shall be free in any unit to establish and administer educational institutions of their choice.

(b) The State shall not, while providing state aid to schools, discriminate against schools under the management of minorities whether based on religion, community, or language.
The clause was incorporated as clause 24 with some drafting changes in the Draft Constitution prepared by the Constitutional Advisor. The Drafting Committee revised the text of clause 24 twice, the most significant change being the re-drafting of sub-clause (1). The clause finally took the shape as Article 23 of the Draft Constitution. The Drafting Committee, at the revision stage divided Article 23 into two separate Articles - Article 29 and 30 as now contained in the existing Constitution. However other kind of language related issues were given the Constitutional rights rather than fundamental rights. Thus except for a few concessions which the Assembly admitted for the Anglo-Indian community no other religious minority could secure any political rights. The concession to Anglo-Indians, as finally incorporated in the Constitution, comprised of provisions authorizing the President to nominate not more than two members of the Anglo-Indian community to the House of the People if in his opinion that community happened to be inadequately represented (Article 331). A similar provision was made for nomination in the State Legislative Assemblies (Article 333). Both the provisions were to remain in force for a period of 30 years only (Article 334), a provision for reservation in railways, customs and postal and telegraph services for ten years, the reservations being on the same basis on which they were made before 1947 (Article 336). A special provision was incorporated for continuance of special educational grants for a period of ten years which were available to that community in 1948 (Article 337). Due to the partition of country there was a strong feeling against the communal forces and hence no attempt was made on any occasion even to define the term “Minority” in precise words. The feeling was so strong that the words “Certain Classes” were substituted for the word “Minorities” wherever it occurred in the text of the Constitution. Not only is the use of the term minority in the Constitution very rare but also no group is mentioned explicitly as a minority therein. The term ‘Minority’ is mentioned in only two Articles, 29 and 30. Here too the use of the term is not for definitional purposes. In one of the Articles it is used only in the sub-
heading of the Article and not in the text of the Article. More so Article 366 of
the Constitution, which is exclusively utilized to give the meaning of words and
terms used in the text of the Constitution gives meaning to 30 such
expressions. But here too the term “Minority” is not covered.

4.2.3 Constitutional Provisions relating to minority rights

It is praiseworthy that Constitution of India has afforded protection to the
minorities in the country. The framers of the Constitution were quite conscious
of the importance of these provisions. They very well understood that, in
pluralistic society rights of minorities and weaker sections need to be
safeguarded. The idea of giving some special right to the minorities is not to
treat them as privileged section of the population but to give to the minorities a
sense of security. Special rights for minorities were designed not to create
inequalities but to bring about equality by ensuring the preservation of the
minority institutions and by guaranteeing autonomy in the matter
of administration of these institutions.

In India, the safeguards for minorities under the constitution of India are in
form of fundamental rights. Firstly the Constitution nowhere discriminates
among the citizens of India on the grounds of religion, race, caste, etc and
secondly, the rights conferred under Articles 25 to 30 are fundamental rights.
The State is duty bound to protect the fundamental rights.

If fundamental rights are infringed the remedy lies under Articles 32 and 226.
A person can directly approach the Supreme Court or the High Court in case of
violation of fundamental rights. So the true spirit and intention of the
Constitution is to provide a very formal and water tight arrangement for
safeguarding the interest of minorities.

There are some Articles in the constitutions of India that exclusively safeguards
minority’s rights, whereas, there are certain Articles though not specifically
meant for minorities but they strengthen minorities’ rights. Hereunder the safeguards of minority rights are discussed.

**Article 14, Equality before law** - The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

The concept of equality, guaranteed in Article 14, as enshrined has made everyone equal before the law. The fundamental rights are guaranteed to minority and majority as well. According to Article 14 of the Constitution, all persons shall be equally subjected to the law and that among equals; law shall be equal and shall be equally administered. Thus minorities cannot be put to any legal disability vis-à-vis the majority. Articles 15 and 16 prohibit discrimination only on certain grounds. Both these Articles are guarantee against discrimination of any kind and it can be asserted that no member of a minority community will be handicapped simply because he belongs to any particular minority group. Thus, other things being equal, minorities have every right in India to be appointed to any public office, however high; they have a common citizenship and these rights along with their cultural and educational rights will go long way in safeguarding the interests of minorities.

**Article 15, Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth** -

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
   (a) access to shops, public restaurants, hotels and places of public entertainment, or
(b) the use of wells, tanks, bathing ghats roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.

(3) Nothing in the Article shall prevent the State from making any special provision for women and children.

(4) Nothing in this Article or in clause (2) of Article 29 shall prevent the State form making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

Article 16. Equality of opportunity in matters of public employment-

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the service under the state.

[(4A) Nothing in this Article shall prevent the State from making any provision for reservation [in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the state in favour of the Scheduled Castes and Scheduled Tribes which in the opinion of the State are not adequately represented in the services under the State.
[4B) Nothing in this Article shall prevent the State from considering any unfilled vacancies of a year which are reserved for the being filled up in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. Reservation will depend on total number of vacancies of that year.]

(5) Nothing in this Article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**Article 21. Protection of life and personal liberty**- No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Article 25. Freedom of conscience and free profession, practice and propagation of religion**- 
(1) Subject to public order, morality and health and to other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this Article shall affect the operation of any existing law or prevent the state from making any law-

(a) regulating or restricting any economic, financial political or other secular activity which may be associated with religion practice.

(b) providing for social welfare and reform or throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation 1- The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religions.
Explanation II – In sub clause (b) of clause (2) the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina, or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Article 26. Freedom to manage religious affairs

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right-

(a) to establish and maintain institutions for religious and charitable purposes;
(b) to manage its own affairs in matters of religion.
(c) To own and acquire movable and immovable property; and
(d) To administer such property in accordance with law.

Article 27. Freedom as to payment of taxes for promotion of any particular religion

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Article 28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions –

(1) No religious instruction shall be provided in any educational institution wholly maintained out of State fund.
(2) Nothing in clause (1) shall apply to an education institution which is administered by the State but has been established under any endowment or trust which required that religious instruction shall be imparted in such institution.
(3) No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious
worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

**Exclusive rights of minorities.**

India is the largest democracy of the world with secular character and is governed by the constitution. The founding fathers of the Indian Constitution, in order to give a sense of security and confidence to the minorities, have conferred certain rights to minorities. Minorities in India do not stand on equal footing with others, which made the framers of the Constitution, through Article 29 and Article 30, accord special rights to the people who form religious or linguistic minority in India.

On an outset it is desirable to delineate Articles 29 and 30 of the Constitution of India, which relevant subject matter for the purpose of this study. The need for defining minorities stems from Article 29 and 30, which guarantees minorities following privileges:

**Cultural and Educational Rights**

**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 to Articles of the Constitution of India it is found that 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 in Article 30, one based on religion and other based on language.

These provisions were to give religious and linguistic minorities’ security and confidence, and develop their own culture by bringing up their children in the manner and with the ideals they preferred that the Constitution of the country embodied a special provision in the list of Fundamental Rights.

As these rights are part of Chapter III of the Constitution, consisting of fundamental rights, they are safeguarded against future infringement. Every legal provision or executive action need to conform to the mandates implied in them. Article 13 of the Constitution of India bars the state from making any law abridging or limiting any of the rights guaranteed under this chapter.

**Article 13 of Constitution** of India deals with: Laws inconsistent with or in derogation of the fundamental rights.
1. All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void
2. The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void
3. In this Article, unless the context otherwise requires law includes any Ordinance, order, bye law, rule, regulation, notification, custom or usages having in the territory of India the force of law; laws in force includes laws passed or made by Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas
4. Nothing in this Article shall apply to any amendment of this Constitution made under Article 368.

As per the Article 13 of the Constitution of India the State is barred from making any law abridging or limiting any of the fundamental rights guaranteed under chapter III of the Constitution of India. It threatens to veto the laws found inconsistent with the Fundamental Rights.

**Article 12 defines State:** The State includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

The term ‘law’ includes within its amplitude any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law; and the prohibition binds all such instrumentalities within the State as having legal authority to formulate such law. The promise of enforcement is contained in Article 32 which, conferring practicability to the assertions contained in Article
13, declares that the right to move the Supreme Court by appropriate proceedings for the enforcement of Fundamental Rights is guaranteed and thus imposes a duty upon the highest court to afford protection against any violation and vests a corresponding right in the religious and linguistic minorities to seek remedy in case the rights are threatened with deprivation or infringement. A similar jurisdiction has been conferred upon the High Courts under Article 226. The rights are made justifiable before the courts for double purpose of protecting them against arbitrary action of regulatory authorities wielding the force of state and against excesses of elected legislatures dominated by transient numerical majorities and often swayed by passions and prejudices.

Further Articles related to linguistic minorities are as under

**Article 347: Special provision relating to language spoken by a section of the population of a State:**

On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognized by that State, direct that such language shall also be officially recognized throughout that State or any part thereof for such purpose as he may specify.

**Article 350: Language to be used in representations for redress of grievances:**

Every person shall be entitled to submit a representation for the redressal of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

**Art. 350A: Facilities for instruction in mother-tongue at primary stage:**

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.

**Art. 350 B: Special Officer for Linguistic Minorities**

i) There shall be a special officer for the linguistic minorities to be appointed by the president.

It shall be the duty of the Special Officer to investigate all matters 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 report to be laid before each House of the Parliament, and sent to the Government of the State concerned.

**4. 3. Consensual Safeguards for Minorities**

In addition to Constitutional safeguards of Article 29 and 30 mentioned earlier, following the reorganization of the states on the linguistic basis, there emerged some safeguards on consensual basis for linguistic minorities. These have been agreed to by the Central and the State Governments through series of meetings of Chief Ministers of all the states.

1. Instruction through minority languages at the Secondary stage of education;

2. Translation and publication of important rules, regulations, notices, etc., into all languages, which are spoken by at least 15% of the total population at district or sub-district level;

3. No insistence upon knowledge of State’s Official Language at the time of recruitment. Test of proficiency in the State’s Official Language to be held before completion of probation.

The constitutional and the consensual safeguards together with practical way to implement them has led to the following
4. 4. Combined Scheme of Safeguards for Minorities

The salient features of the Scheme, as at present, are:

1. Translation and publication of important rules, regulations, notices, etc., into all languages, which are spoken by at least 15% of the total population at district or sub-district level;

2. Declaration of minority languages as second official language in districts where persons speaking such languages constitute 60% or more of the population;

3. Receipt of, and reply to, representations in minority languages; scheme of safeguards

4. Instruction through mother tongues/ minority languages at the Primary stage of education;

5. Instruction through minority languages at the Secondary stage of education;

6. Advance registration of linguistic preference of linguistic minority pupils, and inter-school adjustments;

7. Provision for text books and teachers in minority languages; scheme of safeguards

8. Implementation of Three-language Formula;

9. No insistence upon knowledge of State’s Official Language at the time of recruitment. Test of proficiency in the State’s Official Language to be held before completion of probation
10. Issue of Pamphlets in minority languages detailing safeguards available to linguistic minorities;

11. Setting up of proper machinery at the State and district levels.

Beyond the above provisions there is a National Commissioner of linguistic Minorities.

4.5. National Commissioner of linguistic minorities.

We have National Commissioner for Linguistic minorities, an organisation to monitor and implementation of Constitutional and Consensual safeguards for linguistic minorities.

Safeguards provided to the linguistic minorities are of two kinds.

1. Those provided by the Constitution

2. Those arrived at by the consensus by Central and State Governments through series of meetings.

3. The combine scheme.

4.6. Classification of Minority Educational Institutions

Minority Educational Institutes can be classified into recognized and unrecognized institutions. Institutions like school and colleges that provide secular education are generally recognized by the government, where as informal centers of education like Madrasas, Bible colleges, etc are unrecognized. Recognized schools and colleges are of two kinds Viz: Aided and Unaided. Aid schools and colleges means financial assistance is granted to the said school or college by the Central government, State government or any funding agency establish by the government. Unaided schools and colleges are
the one which do not receive any funds from the government and they manage the institutions by the funds generated by them.

It would be pertinent to understand the kind of Educational Institutions run by Minority Community.

**Recognized** – means an institution recognized by an appropriate authority where ‘appropriate authority’ can be defined as administrator or any other officer authorized by Central or State government.

**Aided schools or colleges** – means a recognized school or college which is receiving aid in the form of maintenance grant from the central government, administrator or local authority or any other authority designated by the central government, administrator or a local authority.

**Unaided schools or colleges** – means a recognized school or college, which does not receive any aid.

In terms of government regulations also, there is difference between aided and unaided institutions

1) State can’t impose its reservation policy on minority and non-minority on unaided private colleges including professional colleges.

2) Up to the level of undergraduate education, the minority unaided educational institution enjoys total freedom.

3) However, different considerations would apply for graduate and postgraduate level of education as also for technical and professional educational institution i.e. such education cannot be imparted by any institution unless recognized or affiliated by any competent authority created by law such as university, board, central or state government or alike.

**4.7. Highlights of various Acts that deals with Minority Rights**

The Indian Parliament on the 17, May 1992 passed the National Commission for Minorities Act, ordering the Central Government to constitute a body, called the National Commission for Minorities. In 2004 National Commission of Minority Educational Institutions Act was enacted to ensure that the rights
guaranteed to minorities were effectively implemented. Hereafter the important provisions of both the Acts are highlighted.

4.7.1. National Commission of Minority Act, 1992\textsuperscript{100}

The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978 which specifically mentioned that, "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State Laws and in the government policies and administrative schemes enunciated from time to time. Sometime in 1984 the Minorities Commission was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare.

With the enactment of the National Commission for Minorities Act, 1992, the Minorities Commission became a statutory body and renamed as National Commission for Minorities. The first Statutory National Commission was set up on 17th May 1993. Vide a Gazette notification issued on 23rd October 1993 by Ministry of Welfare, Government of India, five religious communities viz; the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities. As per the 2001 Census, these five religious minority communities constitute 18.42% of the country’s population.

\textsuperscript{100}\url{http://ncm.nic.in/}
Functions of NCM

As per Section 9(1) of the NCM Act, 1992, the Commission is required to perform following functions:-

(a) Evaluation of the progress of the development of minorities under the Union and States;
(b) Monitoring of the working of the safeguards for minorities provided in the Constitution and in laws enacted by Parliament and the State Legislatures;
(c) Making recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;
(d) Looking into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities;
(e) Getting studies to be undertaken into the problems arising out of any discrimination against minorities and recommending measures for their removal;
(f) Conducting studies, research and analysis on the issues relating to socio-economic and educational development of minorities;

(g) Suggesting appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;

(h) Making periodical or special reports to the Central Government or any matter pertaining to minorities and in particular the difficulties confronted by them; and

(i) Any other matter, which may be referred to it by the Central Government.

**Powers vested with National Commission of Minority**

The Commission shall, have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:-

a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath.

b) Requiring the discovery and production of any document.

c) Receiving evidence of affidavits.

d) Requisitioning any public record or copy thereof from any court or office.

e) Issuing commissions for the examination of witnesses and documents; and

f) Any other matter which may be prescribed.

### 4.7.2 National Commission for Minority Educational Institutions Act, 2004

The National Commission of Minority Educational Institutions Act is the outcome of the UPA Government’s manifesto that called for ‘National Common
Minimum Programme’. In the National Common Minimum Programme, in its Section on “National Harmony, Welfare of Minorities,” it was mentioned that a commission for minority educational institutions would be established which will provide direct affiliation for minority professional institutions to Central Universities. The Government brought out an Ordinance in November 2004 establishing the Commission. Later a Bill was introduced in the Parliament in December 2004 and both Houses passed the Bill. The NCMEI Act was notified in January 2005.

The Commission is mandated to look into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice. Protection of rights of minorities are enshrined in Article 30 of the Constitution which states that “all minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice”. Thus, the Commission can look into any complaints relating to violation and deprivation of rights of minorities to establish and administer educational institutions of their choice.

This is the first time that a specific Commission has been established for protecting and safeguarding the rights of minorities to establish and administer educational institutions of their choice. This Commission is a quasi-judicial body and has been endowed with the powers of a Civil Court. It is headed by a Chairman who has been a Judge of the Delhi High Court and two members to be nominated by Central Government. The Commission has 3 roles namely adjudicatory function, advisory function and recommendatory powers. So far as affiliation of a minority educational institution to a university is concerned, the decision of the Commission would be final.

The Commission has powers to advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it. The Commission can make recommendations to the Central
Government and the State Governments regarding any matter which directly or indirectly deprives the minority community of their educational rights enshrined in Article 30.

The empowerment of the Commission has provided a much needed forum for the minority educational institutions to highlight their grievances and to get speedy relief. The subject matter of a petition or complaint include non issue of No Objection Certificate (NOC) by the State Governments, delay in issue of NOC, refusal or delay in issue of minority status to minority educational institutions, refusal to allow opening of new colleges, schools or institutions by minorities, refusal to allow additional courses in minority educational institutions, delay or refusal in the release of grants in-aid, refusal to give financial assistance, denial of permission to create new posts of teachers in minority educational institutions even though there is increase in the number of students, approval of appointment of teachers being denied, non equality in pay scales of minority schools teachers as compared to Government school teachers denial of teaching aids and or other facilities like computers, library, laboratory etc. to minority educational institutions on par with Government institution, non availability of books in Urdu in all subject for students of Urdu school, non appointment of Urdu knowing teachers, in adequate payment to Madrasa employees, non-release of grants to Madrasa, non-payment of retirement benefits to teachers and non-teaching staff of minority schools, extension of Sarva Shiksha Abhiyan facilities to minority educational institution especially in the deprived rural areas etc.

Functions and Powers of the Commission are enumerated below: -

**Functions of Commission:**

Notwithstanding anything contained in any other law for the time being in force, the Commission shall –

(a) Advise the Central Government or any State Government on any question relating to the education of minorities that may be referred to it;
(b) Enquire, *suo motu*, or on a petition presented to it by any minority educational institution, or any person on its behalf into complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating to affiliation to a University and report its finding to the appropriate Government for its implementation;

(c) Intervene in any proceeding involving any deprivation or violation of the educational rights of the minorities before a court with the leave of such court;

(d) Review the safeguards provided by or under the Constitution, or any law for the time being in force, for the protection of educational rights of the minorities and recommend measures for their effective implementation;

(e) Specify measures to promote and preserve the minority status and character of institutions of their choice established by minorities;

(f) Decide all questions relating to the status of any institution as a minority educational institution and declare its status as such;

(g) Make recommendations to the appropriate Government for the effective, implementation of programmes and schemes relating to the minority educational institutions; and

(h) Do such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Commission.

**Powers of Commission**:

As enunciated in Section 12 of the NCMEI Act, 2004 the Commission enjoy the following powers.

1. If any dispute arises between a minority educational institution and a University relating to its affiliation to such University, the decision of the Commission thereon shall be final.

2. The Commission shall, for the purposes of discharging its functions under this Act, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:-
(a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
(b) Requiring the discovery and production of any document;
(c) Receiving evidence on affidavits;
(d) Subject to the provisions of section 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
(e) Issuing commissions for the examination of witnesses or documents; and
(f) Any other matter which may be prescribed.

1. Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

The Commission is also vested with the powers of appeal against order of competent authority (Section 12A) to decide on minority status of educational institutions (Section 12B) power to cancel the status granted (Section 12C), and to investigate matters relating to deprivation of educational rights of minorities (Section 12D). The Commission has also powers for calling for information from the Central Government or any State Government or any other authority or any organization subordinate thereto, while enquiring into complaints, violation or deprivation of educational rights of minorities (Section 12E).

No court except the Supreme Court and a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution shall entertain any suit, application or other proceedings in respect of any order made by the Commission (Section 12 F).

**Rights of Minority Educational Institutions:**
The National Commission for Minority Educational Institutions Act 2004 (2 of 2005) as amended by the NCMEI (Amendment Act 2006) lays down rights of Minority Educational Institutions as under:

Right to establish a Minority Educational Institution:

1. Any person who desires to establish a Minority Institution may apply to the Competent authority for the grant of no objection certificate for the said purpose.

2. The Competent authority shall:
   (a) on perusal of documents, affidavits or other evidence, if any; and
   (b) after giving an opportunity of being heard to the applicant, decide every application filed under sub-section (1) as expeditiously as possible and grant or reject the application, as the case may be: Provided that where an application is rejected, the Competent authority shall communicate the same to the applicant.

3. Where within a period of ninety days from the receipt of the application under sub-section (1) for the grant of no objection certificate:
   (a) the Competent authority does not grant such certificate; or
   (b) where an application has been rejected and the same has not been communicated to the person who has applied for the grant of such certificate, it shall be deemed that the Competent authority has granted a no objection certificate to the applicant.

4.8. State–wise and year wise details of Minority Status Certificates issued as on 31.07.2011

Educational institutions have to apply for acquiring the Minority Status to the State Government. Following table gives the details of minority status certificate issued from 2005 to 2011 in the different States of the Country.

102 http://ncmei.gov.in/index.aspx?clt=84,
There are maximum numbers of minority educational institutes in Kerala followed by Uttar Pradesh and West Bengal.

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4.9. Guidelines applicable for granting of minority status to educational institutions

Minority educational institution means an institution established and administered by a minority having the right to do so under clause (1) of Article 30 of the constitution. Respective State Government while granting recognition to Minority Institution lay down certain conditions. Delhi Government has laid down following conditions for grant of recognition to minority educational institutions\(^\text{103}\) [More or less the conditions applied are on the same line everywhere in the country.]:

The following policy guidelines are hereby notified for grant of minority status to educational institutions seeking affiliation to an University and the Board of Technical Education, Delhi :-

1. **Definition of minorities for the purpose of minority-run educational institutions:**

   “Minority communities” for the purpose of establishing minority educational institutions means a community notified as such under the Government of Delhi Minorities Commission Act 1999.

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\(^{103}\) [http://te.delhigovt.nic.in/minor.html]
2. **Competent Authority for according recognition to minority Educational Institutions.**

The Competent authority to grant recognition to minority educational institutions in Delhi will be the Secretary of the Department concerned in the Government of Delhi.

3. **Criteria for recognition of Minority Educational Institutions:**

   The educational institution should have been established by a minority community.

   a) The agency managing the institution should have been registered under the Societies Registration Act, 1860.

   b) The Managing Committee of the Society and Governing body of the institution should be wholly or substantially managed by the representatives of the respective minority community.

   c) The educational institution should have been running for at least two academic years in accordance with the regulations laid down by statutory authorities such as the State Government, AICTE, University, Board of Technical Education, etc.’

   d) Merely giving a nomenclature as that of belonging to a minority community will not entitle the institutions to be recognized as a minority educational institution.

4. **Conditions for grant of recognition to minority Educational Institutions:**

   i) The aim and objectives of the educational agency incorporated in its byelaws should clearly specify that it is meant to primarily serve the interest of the minority community to which it belongs.

   ii) The minority educational institution shall not compel its students or employees to take part in any of its religious activities.

   iii) The minority educational institution shall observe general laws of the land relating to educational institutions.
iv) The minority educational institution will not use its privilege as minority institution for any pecuniary benefit.

v) The minority educational institution shall charge the fees as prescribed by competent authority concerned.

vi) The minority educational institution shall appoint teachers as per the qualifications laid down by the statutory authority concerned from time to time.

vii) In all academic, administrative and financial matters the rules and regulations laid down by the respective statutory authorities from time to time shall be wholly applicable to these institutions.

viii) The minority educational institution shall do nothing which may come in the way of communal and social harmony.

ix) Fifty percent of the seats permitted to be filled up from minority communities shall be equally distributed between ‘free’ and ‘payment’ seats.

5. Admission

All admissions shall be made on the basis of merit as per the Common Entrance Test held by competent authority. No admission outside the merit list shall be allowed until and unless competent authority allows doing so.

6. Procedure for seeking recognition as a Minority Educational Institution:

i) Educational agencies who wish to seek recognition of their institution as a minority institution should submit an application on a prescribed form to the competent authority concerned.

ii) A fee of Rs.10,000/- will be charged for processing the proposal and inspection of the institution. In case of renewal of recognition a fee of Rs.5,000/- shall be charged.

iii) Respective competent authority shall examine the proposals and get the institute inspected, if required.
iv) The recognition given by the competent authority shall be valid for a period of three academic years. During the validity period of recognition the competent authority can withdraw recognition at any time.

v) The institution will have to apply to the competent authority for revalidation of the recognition at least three months before the expiry of the period of validity.

7. **Withdrawal of Recognition**

The competent authority can withdraw the approval or recognition of any minority educational institution on following grounds:

i) If the educational institution subsequent to grant of approval as minority educational institution modified/revises/amends the constitution, aims and objectives on the basis of which approval was accorded.

ii) If the educational institution fails to adhere to the norms and conditions relating to fee structure, admission procedure, staff pattern and other qualifications, etc. prescribed by competent authority.

iii) If at any time the educational institution fails to meet the requirements prescribed by competent authority or other statutory authorities under their policy guidelines for recognition of the institution as minority educational institution.

iv) Any other circumstances which in view of competent authority warrants withdrawal of recognition of minority educational institution.

Provided that recognition once given will not be withdrawn unless competent authority has given sufficient opportunity to the minority institution to show cause as to why the recognition given should not be withdrawn.

There are separate rules for recognition of linguistic minority institutions the criteria being:
1) Institutes conducting definable and verifiable activity for promotion of minorities.
2) Minority language is taught as a language subject of the study.
3) Minority language is medium of instruction.

4.10 National Minorities Development Finance Corporation (NMDFC)
National Minorities Development Financial Corporation was incorporated under the aegis of “Ministry of Social Justice and Empowerment”, Government of India on the 30th of September 1994 under the Section 25 of the Companies Act – 1956 with the main objective to promote economic development of the poorer section of Minorities. The people belonging to five communities i.e. Muslims, Christians, Sikhs, Buddhists & Parsis have been notified as minorities under the National Commission for Minorities Act, 1992. The prime mandate of NMDFC has been to provide concessional finance to the minorities living below double the poverty line for self-employment. NMDFC functions under the administrative control of the Ministry of Social Justice & Empowerment, Government of India.

4.11. The national Commission for Religious and Linguistic Minorities [NCRLM]
National Commission for Religious and Linguistic Minorities also called as Ranganath Misra Commission was constituted by Government of India on 29 October 2004 to look into various issues related to Linguistic and Religious minorities in India. It was chaired by former Chief Justice of India Justice Ranganath Misra. The commission submitted the report to the Government on 21 May 2007.

Initially, the commission was entrusted with the following terms of reference.
(a) To suggest criteria for identification of socially and economically backward sections among religious and linguistic minorities;
(b) To recommend measures for welfare of socially and economically backward sections among religious and linguistic minorities, including reservation in education and government employment; and
(c) To suggest the necessary constitutional, legal and administrative modalities required for the implementation of its recommendations.

After nearly five months of its work the Commission’s Terms of Reference were modified so as to add the following to its original Terms of Reference.

(d) To examine and give recommendation on the demand of the Christian and Muslim dalits to be included in the Scheduled Castes. This issue has gone to the apex court through several writ petitions filed in that court and in several High Courts.

Major finding of the commissions were as follows:

i) 15% of jobs in government services and seats in educational institutions be reserved for minorities.

ii) 8.4% of OBC quota of 27% be reserved for minorities

iii) Scheduled Caste reservation benefits be extended to dalit converts.

4.12. Present United Progressive Alliance Government’s efforts towards Minority Rights

After election to Lok Sabha the United Progressive Alliance (UPA) Government took office in May 2004, and adopted a National Common Minimum Programme (NCMP). Following are the extracts from the NCMP which have a bearing on Minorities Education.

➢ The UPA Government will amend the Constitution to establish a Commission for Minority Educational Institutions that will provide direct affiliation for Minority Professional Institutions to Central Universities.

➢ The UPA Government will promote modern and technical education among all minority communities. Social and economic empowerment of minorities to more systematic attention to education and employment will be a priority concern for the UPA

To fulfill their commitment the UPA Government passed National Commission for Minority Educational Institutions Act, 2004. Further the Prime minister announced 15 point programme for the welfare of Minorities.

4.13. Prime Minister’s New 15 Point Programme for Welfare of Minorities’.

Prime Minister has announced 15 point programme for upliftment of
minorities. Those points are enumerated hereunder

**(A) Enhancing opportunities for Education.**

*(1) Equitable availability of ICDS Services.*

The integrated Child Development Services (ICDS) Scheme is aimed at holistic development of children and pregnant/lactating mothers from disadvantaged section, by providing services through Anganwadi Centres such as supplementary nutrition, immunization, health check-up, referral services, pre-school and non-formal education. A certain percentage of the ICDS projects and Anganwadi Centres will be located in blocks/villages with a substantial population of minority communities to ensure that the benefits of the scheme are equitable available to such communities also.

**(2) Improving access to School Education.**

Under the Sarva Shiksha Abhiyan, the Kasturba Gandhi Balika Vidyalaya Scheme, and other similar Government schemes, it will be ensured that a certain percentage of such school are located in villages/localities having a substantial population of minority communities.

**(3) Greater resources for teaching Urdu.**

Central assistance will be provided for recruitment and posting of Urdu language teachers in primary and upper primary schools that serve a population in which at least one-fourth belong to that language group.

**(4) Modernizing Madarsa Education.**

The Central Plan Scheme of Area Intensive and Madarsa Modernization Programm provides basis educational infrastructure in areas of concentration of educationally backward minorities and resources for the modernization of Madarsa education. Keeping in view of importance of addressing this need, this programme will be substantially strengthened and implemented effectively.

**(5) Scholarships for meritorious students from minority communities.**

Schemes for pre-matric and post-matric scholarships for students from minority communities will be formulated and implemented.

**(6) Improving educational infrastructure through the Maulana Azad Education**
The Government shall provide all possible assistance to Maulana Azad Education Foundation (MAEF) to strengthen and enable it to expand its activities more effectively.

**B) Equitable Share in Economic Activities and Employment**

(7) *Self-Employment and Wage Employment for the poor.*

The Swarnjayanti Gram Swarojgar Yojna (SGSY), the primary self-employment programme for rural areas, has the objective for bringing assisted poor rural families above the poverty line by providing them income generating assets through a mix of bank credit and Governmental subsidy. A certain percentage of the physical and financial targets under the SGSY will be earmarked for beneficiaries belonging to the minority communities living below the poverty line in rural areas.

The Swarnjayanti Shahary Rozgar Yojna (SSRY) consists of two major components namely, the Urban Self-Employment Programme (USEP) and the Urban Wage Employment Programme (UWEP). A certain percentage of the physical and financial targets under USEP and UWEP will be earmarked to benefit people below the poverty line from the minority communities.

The Sampurna Grameen Rozgar Yojna (SGRY) is aimed at providing additional wage employment in rural areas alongside the creation of durable community, social and economic infrastructure. Since the National Rural Employment Guarantee Programme (NREGP) has been launched in 200 districts, and SGRY has been merged with NREGP in these districts, in the remaining districts, a certain percentage of the allocation under SGRY will be earmarked for beneficiaries belonging to the minority communities living below the poverty line till these districts are taken up under NREGP. Simultaneously, a certain percentage of the allocation will be earmarked for the creation of infrastructure in such villages, which have a substantial population of minorities.

(8) *Upgradation of skill through technical training.*

A very large proportion of the population of minority communities is
engaged in low-level technical work or earns its living as handicraftsmen. Provision of technical training to such people would upgrade their skills and earning capability. Therefore, a certain proportion of all new ITIs will be located in areas predominantly inhabited by minority communities and a proportion of existing it is to be upgraded to ‘Centres of Excellence’ will be selected on the same basis.

9) Enhanced credit support for economic activities.

The National Minorities Development & Finance Corporation (NMDFC) was set up in 1994 with the objective of promoting economic development activities among the minority communities. The Government is committed to strengthen the NMDFC by providing it greater equity support to enable it to fully achieve its objective.

Bank credit is essential for creation and sustenance of self-employment initiative. A target of 40% of net bank credit for priority sector lending has been fixed for domestic banks. The priority sector includes, inter alia, agricultural loans, loan to small-scale industries & small business, loans to retail trade, professional and self-employed persons, education loans, housing loans and micro-credit. It will be ensured that an appropriate percentage of the priority sector lending in all categories is targeted for the minority communities.

10) Recruitment to State and Central Services.

In the recruitment of police personnel, State Governments will be advised to give special consideration to minorities. For this purpose, the composition of selection committees should be representative.

The Central Government will take similar action in the recruitment of personnel to the Central police forces. Large scale employment opportunities are provided by the Railways, nationalized banks and public sector enterprises. In these cases also, the concerned departments will ensure that special consideration is given to recruitment from minority communities.

An exclusive scheme will be launched for candidates belonging to minority communities to provide coaching in Government institutions as well as private
coaching institutes with credibility.

(C) Improving the conditions of living of minorities.

(11) Equitable share in rural housing scheme.
The Indira Awaas Yojna (IAY) provides financial assistance for shelter to the rural poor living below the poverty line. A certain percentage of the physical and financial targets under IAY will be earmarked for poor beneficiaries from minority communities living in rural areas.

(12) Improvement in condition of slums inhabited by minority communities.
Under the schemes of Integrated Housing & Slum Development Programme (IHSDP) and Jawaharlal Nehru Urban Renewal Mission (JNURM), the Central Government provides assistance to States/UTs for development of urban slums through provision of physical amenities and basic services. It would be ensured that the benefits of these programmes flow equitable to members of the minority communities and to cities/slums, predominantly inhabited by minority communities.

(D) Prevention & Control of Communal Riots

(13) Prevention of communal incidents.
In the areas, which have been identified as communally sensitive and riot prone districts and police officials of the highest known efficiency, impartiality and secular record must be posted. In such areas and even elsewhere, the prevention of communal tension should be one of the primary duties of the district magistrate and superintendent of police. Their performance in this regard should be an important factor in determining their promotion prospects.

(14) Prosecution for communal offences.
Severe action should be taken against all those who incite communal tension or take part in violence. Special court or courts specifically earmarked to try communal offences should be set up so that offenders are brought to book speedily.

(15) Rehabilitation of victims of communal riots.
Victims of communal riots should be given immediate relief and provided
prompt and adequate financial assistance for their rehabilitation.

**4.14 Out Come**

Thus, it can be seen that there are International Instruments, Constitutional provisions, Various Acts, like National Commission for Minorities Act, 1992, National Commissions for Minorities Educational Institutions Act, 2004, etc safeguarding rights of minorities to establish and administer educational institutions of their choice. Yet, it has been observed that the State authority has not enacted any law for enforcement of educational rights of minorities. Subordinate legislation and administrative laws has abrogated the provisions of the Constitution. Numerous Universities have not incorporated provisions to meet the requirement of Article 30. Regulatory bodies like University Grant Commission (UGC), the National Council for Educational Research and Training (NCERT), the All India Council of Technical Education (AICTE), The Medical Council of India (MCI), and the Bar Council of India (BCI) too have not incorporated rules to accommodate the requirements of Article 30. Despite of the safeguards, it has been observed that minorities have not been able to enjoy these rights automatically. Minorities have approached the Court to get their rights implemented. Since minority rights being spelled out as fundamental rights, therefore Minority Educational Institutes have approached the Court under Articles 32 and 226 for protection of their rights from being infringed the State.