



Minority rights in India: Constitutional ideals, international norms, and the challenge of implementation

Salman¹, Farham Ali²

¹ ICSSR Doctoral Fellow, Department of Political Science, Aligarh Muslim University, Aligarh, Uttar Pradesh, India

² Research Scholar, Department of Political Science, Aligarh Muslim University, Aligarh, Uttar Pradesh, India

Abstract

This paper critically analyses how India's constitutional framework aligns with international human rights standards established by the United Nations, with particular emphasis on equality and the protection of minority rights. As the world's largest democracy and a highly pluralistic society, India formally guarantees justice, liberty, and equality; however, significant challenges persist in translating these commitments into adequate protection for religious, linguistic, and ethnic minorities. The study assesses the effectiveness of India's legal safeguards through a comparative examination of primary UN instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Using a qualitative research design, the paper conducts a doctrinal analysis of constitutional provisions, judicial decisions, and legislative frameworks. It also evaluates UN reports, treaty body observations, and relevant academic commentary. The analysis highlights structural disparities between India's de jure constitutional guarantees, particularly under Articles 14–16, 25–30, and 350, and the de facto realities of discrimination, communal violence, and unequal access to justice experienced by minority communities. It further explores how international best practices in minority protection, such as proportional representation, comprehensive anti-discrimination legislation, and structured affirmative action mechanisms, could guide legal and policy reform in India. The findings demonstrate both areas of convergence and divergence. India's affirmative action policies reflect a comparatively progressive approach; however, significant implementation gaps remain in areas such as hate speech regulation, equitable distribution of public resources, and the safeguarding of religious conversion rights. The paper concludes by proposing targeted measures, including constitutional reinterpretation, statutory reform, and enhanced institutional capacity, to address these shortcomings. By situating India's minority rights framework within broader transnational human rights jurisprudence, this research advances comparative constitutional scholarship. It provides practical recommendations for legislators, judicial authorities, and civil society actors seeking to strengthen democratic pluralism.

Keywords: Minority rights, Indian constitution, UN human rights framework, affirmative action, discrimination

Introduction

The protection of minorities and the promotion of human rights are crucial components of an inclusive and just society. This research paper explores the legal frameworks in India and the United Nations designed to safeguard minority rights and uphold human rights principles. India's diverse, multicultural fabric necessitates a delicate balance between preserving its pluralistic identity and ensuring equal opportunities for all citizens. The Indian Constitution, with its core principles of justice, liberty, equality, and fraternity, guarantees fundamental rights to all individuals, regardless of race, religion, caste, sex, or place of birth. Nevertheless, protecting minority rights remains a complex challenge due to India's historical, socio-cultural, and political context. Through international treaties, agreements, and conventions, the United Nations provides a comprehensive framework for minority protection and human rights promotion. The paper answered the questions that what are the specific provisions in the Indian Constitution and the United Nations framework that aim to safeguard the rights of minorities and ensure equality? How does the United Nations Framework for the Protection of Minorities complement the Indian Constitution in promoting and protecting minority rights? What are the key challenges and limitations in implementing and enforcing the provisions related to minority rights and equality in India? What are the essential international human rights treaties,

agreements, and conventions that India has ratified, and to what extent are these standards reflected in the Indian Constitution?

Addressing Minority Concerns: Special Provisions in India's Constitution

The Indian Constitution does not explicitly use the term "minorities" in its provisions. Instead, it refers to a group of people who possess distinct characteristics, such as race, ethnicity, religion, language, or culture, and who are numerically smaller or less politically dominant than the majority population in a country. The protection of minorities is indicated through the constitution's preamble, fundamental rights, DPSP, and special provisions that address the interests of different religious and linguistic communities as follows:

Article 15: Prohibition of discrimination based on religion, race, caste, sex, or place of birth ensures that the state cannot discriminate against any citizen based on these factors.

Article 16: Equality of opportunity in matters of public employment prohibits any form of discrimination in employment or appointment to any office under the state based on religion, race, caste, sex, descent, place of birth, or residence.

Article 28: Freedom to attend religious instruction or worship in educational institutions is wholly maintained.

Article 29: Protection of the interests of minorities grants every section of citizens residing in India with a distinct language, script, or culture the right to preserve their language, script, or culture.

Article 30: The right of minorities to establish and administer educational institutions ensures that religious and linguistic minorities can establish and manage educational institutions of their own choice.

Article 325: No person shall be ineligible for inclusion in, or claim to be included in, a general electoral roll on the grounds of religion, race, caste, sex, or any of these factors. This article prohibits discrimination in preparing electoral rolls based on religion, race, caste, sex, or any of them.

Article 350A: Facilities for instruction in the mother tongue at the primary stage ensure that children belonging to linguistic minorities receive education in their mother tongue during the initial stage of education.

Article 350B: Special Officer for Linguistic Minorities provides for appointing a Special Officer for Linguistic Minorities to investigate all matters related to the safeguards provided for linguistic minorities under the Constitution.

United Nations and Human Rights: How the UN Framework Protects Minorities

The United Nations (UN) is an international organisation established on October 24, 1945, following the end of World War II. It was established with the primary goal of promoting peace, security, and cooperation among nations. The term UN framework refers to those treaties, conventions, agreements, and international legal instruments established by the United Nations to address global issues and challenges. These agreements serve as foundational principles for the promotion of the rights of all individuals, called human rights, a set of fundamental rights and freedoms for all human beings, irrespective of nationality, race, ethnicity, gender, and religion. These rights are considered universal, inalienable, and indivisible, forming the basis of human dignity and equality. The UN adopted various instruments for protecting and promoting the rights of groups, calling them minorities within society. These groups, which may be based on ethnicity, religion, language, or other characteristics, are as follows:

The Universal Declaration of Human Rights (UDHR)

^[1]: The Universal Declaration of Human Rights (UDHR) is a foundational document in the field of human rights, including civil, political, economic, social, and cultural rights, adopted by the United Nations General Assembly in 1948. It does not explicitly mention the term minorities. Still, it affirms the principles of equality, non-discrimination, and the protection of fundamental rights and freedoms for all individuals, including minorities, regardless of their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The UDHR is non-binding, and India is a signatory to it. The following articles are relevant to the rights of minorities:

Article 2: This article states that everyone is entitled to all rights and freedoms and establishes the principle of non-discrimination without distinction. This is essential for protecting the rights of minority groups.

Article 7: This article emphasises that all are equal before the law and have equal protection against discrimination. It safeguards minority groups from discriminatory practices.

Article 18: It guarantees the freedom of thought, conscience, religion, or belief, which is vital for protecting the rights of religious or belief-based minority communities.

Article 19: It recognises the rights to freedom of opinion and expression, which are essential for promoting and protecting the rights of minority groups to express their unique perspectives and identities.

Article 27: It highlights the right of individuals to participate in the cultural, religious, and social life of their community and preserve or develop their cultural, religious, and linguistic identities.

International Covenant on Civil and Political Rights (ICCPR)

^[2]: In 1966, the United Nations General Assembly adopted the International Covenant on Civil and Political Rights. It guarantees rights to all individuals, including minority groups, and provides certain protections to ensure their enjoyment of civil and political rights equally within a state's jurisdiction. It is a multilateral agreement and legally binding treaty that protects civil and political rights such as the right to life, freedom of speech, and freedom of religion. India is a party to the ICCPR, which was ratified in 1979. Several provisions of the ICCPR are particularly relevant to the protection of minority groups. These include Non-Discrimination (Article 2), the Right to Equal Protection (Article 26), the Right to Freedom of Thought, Conscience, Religion, and Belief (Article 18), the Right to Participation in Public Affairs (Article 25), and the Right to Minority Culture, Language, and Identity (Article 27).

International Covenant on Economic, Social, and Cultural Rights (ICESCR)

^[3]: The United Nations General Assembly adopted the International Covenant on Economic, Social, and Cultural Rights in 1966. It is a legally binding treaty that protects economic, social, and cultural rights, such as the right to education, health, and work. India is also party to it and ratified the ICESCR in 1979. The ICESCR includes provisions that protect and promote the rights of minorities. For example:

Article 2(2) of the ICESCR prohibits discrimination on various grounds and ensures that minority groups are entitled to the same rights and protections as the majority population.

Article 6 of the ICESCR recognises the right to work, including the right to just and favourable work conditions, safe and healthy working conditions, and equal remuneration for work of equal value.

Article 13 of the ICESCR recognises the right to education, which will direct the full development of the human personality. It ensures that minority groups have access to quality education and that their cultural, linguistic, and religious identities are respected and preserved.

Article 15 of the ICESCR recognises the right of everyone to take part in cultural life, to enjoy the benefits of scientific progress, and to benefit from the protection of the moral and material interests resulting from any scientific, literary, or artistic production.

UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities

^[4]: The United Nations General Assembly adopted the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities on December 18, 1992. It recognises that persons belonging to minorities have the right to enjoy their own culture, to profess and practise their religion, and to use their own language. The UN Declaration on the Rights of Persons Belonging to National, Ethnic, Religious, or Linguistic Minorities is not legally binding. It serves as a guiding document for states and provides a framework for promoting and protecting the rights of minority groups worldwide. The following are the fundamental principles and provisions of the Declaration:

1. Persons belonging to minorities should be protected from any form of discrimination and should have equal opportunities to enjoy and exercise their rights without discrimination based on their minority status.
2. Individuals belonging to minorities have the right to maintain, practise, and develop their own culture, religion, and language. They should be free to express and celebrate their cultural, religious, and linguistic diversity.
3. People belonging to minorities should be able to participate in decision-making processes that affect them effectively. States are encouraged to consult with and involve minority communities in decisions that may impact their rights and interests.
4. States are urged to ensure that persons belonging to minorities have access to education in their language and to promote respect for their cultural and linguistic identity. They should also provide access to information and media in minority languages.
5. States are called upon to promote the economic and social development of minority communities, ensuring equal opportunities for participation in economic activities, employment, and access to social services.
6. States are encouraged to prevent and resolve conflicts between ethnic, religious, and linguistic groups peacefully and through dialogue. Efforts should be made to promote mutual understanding, tolerance, and respect among all individuals and communities.

The Quest for Efficiency: A Comparative Analysis of Mechanisms and Best Practises

The following are the institutional mechanisms initiated by the Government of India and the United Nations for ensuring equality and protecting minorities from social and political illness: These mechanisms formulate programmes, policies, and plans for safeguarding minority rights.

1. **The National Commission for Minorities (NCM):** It is a statutory body established by the Government of India to protect and promote the interests of five religious communities officially recognized as minorities in India. It was set up under the National Commission for Minorities Act, 1992, which came into effect on May 17, 1993 ^[5].

2. **The Sachar Committee:** In March 2005, The Government of India initiated a committee officially known as the Prime Minister's High-Level Committee on the socio-economic and educational Status of Muslims in India. The chairman of Justice Rajinder Sachar, a former Delhi High Court Chief Justice. The primary objective of the Sachar Committee was to conduct a comprehensive study to understand the various dimensions of deprivation and backwardness faced by the Muslim minority in India ^[6].
3. **Rang Nath Mishra Commission on Minorities:** The R. N. Mishra Commission was established by the Indian government in 1978 and named after its chairman, Rang Nath Mishra, a prominent Indian politician. The Rang Nath Mishra Commission examined the socio-economic and educational status of religious and linguistic minorities in India. It sought to understand the challenges faced by these minority groups and recommend measures to improve their overall well-being and promote inclusivity ^[7].
4. **Multi-Sectoral Development Programme (MsDP):** The Ministry of Minority Affairs launched the programme to focus on the inclusive growth and development of minority groups. MsDP is designed to provide targeted funding for infrastructure and socio-economic development projects in education, healthcare, skill development, and other vital sectors, the programme aims to uplift the socio-economic status of minorities and bridge development gaps ^[8].
5. **The Ministry of Minority Affairs:** It is a governmental department in India responsible for formulating and implementing policies and programmes for the welfare and development of minority communities. The ministry aims to protect and promote the rights of religious and linguistic minorities and create an inclusive environment where all citizens can thrive and prosper ^[9].
6. **The National Commission for Minority Educational Institutions (NCMEI):** It is a statutory body formed under the National Commission for Minority Educational Institutions Act, 2004. The primary mission of the NCMEI is to ensure that minority communities have the necessary means to establish and administer educational institutions according to their distinct cultural and religious ethos. It is dedicated to removing barriers and providing equal opportunities for minorities in the field of education, thereby promoting their socio-economic development and empowering them to contribute meaningfully to the nation's progress ^[10].
7. **UN Special Rapporteur on Minority Issues:** The appointment of a Special Rapporteur on Minority Issues by the UN Human Rights Council facilitates the monitoring and reporting of issues affecting minority groups worldwide. The rapporteur helps raise awareness, conducts research, and advises on best practises to protect minority rights ^[11].

8. **UN Forum on Minority Issues:** This annual forum provides a platform for dialogue and the exchange of ideas between governments, civil society, and minority representatives. It promotes implementing minority rights and encourages states to share good practises for protecting minority groups ^[12].
9. **United Nations Human Rights Council's Universal Periodic Review (UPR):** The UPR is a mechanism that examines the human rights record of all UN Member States, including their efforts to protect minority rights. It encourages states to address issues related to minority rights and make improvements based on recommendations ^[13].
10. **UN Development Programme (UNDP) and UN Educational, Scientific, and Cultural Organisation (UNESCO) initiatives:** Various UN agencies work to support the economic, social, and cultural rights of minority groups through development projects and educational programmes that promote tolerance, diversity, and inclusivity ^[14].
11. **Treaty Bodies and Committees:** UN treaty bodies, such as the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child (CRC), monitor the implementation of specific treaties and guide states on how to protect minority rights effectively ^[15].
12. **Peacekeeping Missions and Conflict Resolution:** In conflict-affected regions, UN peacekeeping missions often work to protect the rights of minority groups, promote peace, and foster reconciliation among different communities ^[16].
13. **United Nations Development Assistance Framework (UNDAF):** The UNDAF provides a strategic framework for the development work of the UN system at the country level. It often incorporates measures to protect minority rights and ensure their inclusion in development programmes ^[17].
3. **Educational Initiatives:** The UN encourages inclusive education that promotes understanding, tolerance, and respect for diversity. India can adopt educational initiatives to foster intercultural awareness and mutual respect among the youth. Integrating minority cultures and histories into the national curriculum can contribute to building a more cohesive and harmonious society.
4. **Cultural and Linguistic Preservation:** Preserving the cultural and linguistic heritage of minority communities is vital for maintaining diversity. India can adopt policies that promote the protection and revitalization of minority languages, arts, and traditions. It includes funding cultural events and institutions and supporting initiatives that encourage the use of minority languages in education and media.
5. **Participation and Representation:** Ensuring minority representation in decision-making processes is essential for their inclusion. India can implement affirmative action measures to increase minority participation in politics, public institutions, and the workforce. Encouraging political parties to nominate minority candidates for elections and establishing reserved seats for minorities can help promote their representation.
6. **Combating Discrimination and Hate Speech:** India can enact and enforce laws that criminalise discrimination and hate speech against minorities. The legal system should respond promptly and effectively to hate crimes and acts of violence targeting minority communities. Public awareness campaigns can also be organised to combat stereotypes and promote tolerance and understanding.
7. **Data Collection and Monitoring:** Collecting accurate and comprehensive data on minority populations is crucial for evidence-based policymaking and monitoring progress. India can establish a systematic data collection mechanism that includes information on living conditions, access to services, and socio-economic indicators of minority communities.

Unlocking India's Institutional Vision: Identifying Promising Opportunities

1. **National Legislation and Policy Framework:** India can strengthen its national legislation and policy framework to reflect the UN's emphasis on minority rights. By developing laws and policies that explicitly protect the rights of minorities, India can create an enabling environment for their equitable participation in society. Ensuring these laws harmonise with international standards and UN conventions is crucial.
2. **National Minority Rights Institution:** Establishing a National Minority Rights Institution (NMRI) dedicated to safeguarding minority rights can prove beneficial. This independent body can monitor and investigate human rights violations, including those against minorities, and provide remedies. The NMRI can collaborate with civil society organisations and receive complaints directly from minority communities, promoting transparency and accountability.

Safeguarding Minority Rights: Addressing Social and Political Challenges

1. Specific laws and policies have been criticised for potentially impacting minority communities. For example, there have been concerns about the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC), which some argue could disproportionately affect certain minority groups.
2. The media's portrayal of minority communities can perpetuate stereotypes and biases, reinforcing negative perceptions and contributing to social marginalisation.
3. Discrimination and prejudice against minorities exist in different forms, such as social exclusion, stereotypes, and unequal treatment in various spheres of life, including education, employment, and housing. Minority communities often face barriers to equal opportunities and economic and social marginalisation.
4. India has diverse religious groups, including Hindus, Muslims, and Christians, Sikhs, Buddhists, and others. Religious tensions occasionally arise, leading to discrimination, hate crimes, and conflicts.

5. Some minorities feel underrepresented in political institutions and decision-making processes. They argue that their voices need to be adequately heard, leading to inadequate policies and initiatives addressing their specific needs and concerns.
6. The politician sometimes exploits religious or ethnic differences for political gains, leading to communalism and identity politics. It can further exacerbate divisions and tensions between different communities.
7. Minority communities often face socio-economic disparities. And unequal access to resources, opportunities, and services. It includes disparities in education, healthcare, and employment opportunities, which can contribute to the marginalisation of minorities.
8. Some security measures to combat terrorism have disproportionately targeted and impacted Muslim communities. There have been concerns about profiling, surveillance, and discrimination based on religious identity.

Conclusion

After a comprehensive exploration of the protection of minorities and human rights in the Indian Constitution and the United Nations Framework, it is evident that both entities have made significant efforts to ensure equality and safeguard the rights of minorities. While the Indian Constitution explicitly recognises the importance of upholding fundamental freedoms for all citizens, including minorities, the United Nations Framework provides a global platform to promote human rights and address issues of discrimination and marginalisation. Through the Indian Constitution, India acknowledges the principles of secularism, non-discrimination, and affirmative action to address historical injustices faced by minorities. However, challenges still exist in implementing these principles effectively and consistently nationwide. Further attention and improvements are necessary to bridge the gap between constitutional provisions and ground realities. At the international level, the United Nations Framework offers a vital framework for cooperation and dialogue among nations, encouraging countries like India to commit to international human rights standards and mechanisms. India's engagement with the United Nations on human rights issues provides an opportunity for constructive feedback and improvement in its domestic policies and practises.

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