

## MUSLIM RESERVATION AND SAFEGUARDS: AN OVERVIEW

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### ABSTRACT

The minorities especially Muslims are the prime target of exclusion in the present era, therefore, they are continuously going upside down. Though constitutional provision are meant to safeguard the religious minorities from the exploitation and suppression of majority group yet they are still subjugated. Article 29 and 30 allowed preserving the culture, script and language. These provisions should ensure minorities' equal share in resources thus they (minority group) are equal citizens of India only on paper and left to be treated as the second class citizens in reality.

The government has promoted schemes and programmes for the development of less developed Muslim minorities and it is not showing the satisfactory result because of certain flaws at the part of planners, policy makers and at the levels of the people involved in its implementation as discussed in the paper in the light of constitutional provisions and the recommendations of Sachar committee report.

**KEYWORDS:** Muslims, Reservation, Safeguards, Sachar Committee Report, Overview

### INTRODUCTION

Today, globally growth theories heavily relied upon human capital development. Same is true for India also which is a multi-lingual, multi-cultural and multi-religious country. Muslims, the largest minority community in this country, constituting 13.4 per cent of the population, are seriously lagging behind in terms of most of the human development indicators. While the perception of deprivation is widespread among muslims, there has been no systematic effort since independence to analyse the condition of religious minorities in the country (Sachar Committee Report, 2006). This paper tries to analyze the root cause for the underdevelopment of the Muslim community. To develop this underdeveloped segment of the society and in turn to the nation is to think and act beyond prejudices and biasness.

This biasness is visible from the comparison of localities of Hindu dominated and Muslim Dominated areas. In Muslim localities' infrastructure for instance, roads, medical facilities, sanitation etc are very poor and it requires attention from the part of Government. Muslims' socio-economic status is mostly lower than the status of Scheduled Caste of Hindu community and scheduled tribe. Thus they should be treated on equal grounds with other religious minorities and scheduled caste and scheduled tribe people.

If 120 amendments could be made in the Constitution, making a single amendment in favor of this minority group will be a milestone in the balanced societal development. The Recommendations of the Sachar Committee Report is a positive step in this direction and now its implementation is desirable for the upliftment of the section of the society.

## METHODOLOGY

This research paper adopted the secondary data for analysis. In this paper an attempt is made to find out the root cause of discriminations and the related shortcomings.

## COMMITTEE REPORTS AND ITS ANALYSIS

- **The Constitution of India not only upheld the long cherished secular tradition where people of many faiths have lived together in harmony but also makes special provisions to protect the educational and cultural rights of all minorities, religious and linguistic. (Ranganathan Mishra, 2006: 72).**

With regard to the Scheduled castes (SCs), Scheduled tribes (STs) and others' clause were consciously added in written form. The same are consciously protected and safeguarded. For instance, reservation for SCs/STs, its safeguards in the form of Civil Rights Protection Act, 1955 amended in 1976, SC/ST Prevention against Atrocities Act, 1989, etc. are fully and consciously framed keeping in mind the threat invisibly present on the way to access, gain and enjoy the fruits of available resources in India for these social groups. But it is difficult to convince an individual on the provisions regarding minorities in the constitution.

They have successfully done the justice on paper to the religious and linguistic minorities. But safeguards have not been provided. Just by adding 'equal opportunity of employment' on a piece of paper does not ensure the equal rights of minorities in a social structure whose foundation is based on inequality. The Constitution being more equitable need to add employment opportunity rights (rather 'equal opportunity in employment') along with provisions to facilitate access and to avail employment for minorities. For this purpose, reservation to the minorities should be given and Acts should be formulated and passed to safeguard the equal opportunity in employment.

This point in the Constitution is found to be missing and the minorities especially Muslims and Christians are the highly deprived community in the country in terms of access to the rights of employment. Instead they are the prime target community who do not have provisions to protect already possessed resources and even get justice on timely basis. Protection and safeguards must be honestly agreed to the minorities for proper growth and development. They are the social animals without protection and hope for speedy social justice. This is clearly evident from the enquiry conducted by **Navlakha** in the book entitled *Elite and Social Change*. There is no society in which access to the service class is in practice equally open to persons from all sections of society. Social origin and background play some part in restricting or facilitating such access in all societies. In India such access is severely restricted by social origin and background. (Navlakha, 1989).

- **Article 29 and 30 of the Constitution of India guarantee the rights of the minorities to conserve the language, script and culture and to establish and administer educational institutions of their choice whether based on religion or language.**

These articles of the Constitution did acclaim accolades of the secular character of the Constitution. This article does not affect the set pattern of unequal share of country's resources. The resources could be natural and man-made. The status quo of unequal share in the government employment, defense, police administration, participation in Parliament, Assemblies, educational institutions so forth remain intact. The steps of access and availing employment do not have any protection and safeguards. The Right to establish and administer educational institutions of their choice 'based on religion

or language' does not attract any objection. The higher castes of religious majority group can discriminate existing backward social groups within and outside the religion. The biased actions would be invisible, leaving no way for the minorities to protect or safeguard against such discrimination and injustice. The lack of social justice is disastrous. The prejudiced attitudes easily keep marginalizing minority to remain degraded at the lower strata of hierarchy. These articles did not have any objection of putting the word 'religion' or 'language' for the establishment and administer the educational institution of their choice. Ironically, an indifferent attitude of considering the 'religion' in terms of making available the reservation for the minorities is often experienced by the minorities!

The word 'religion' in establishing and administering educational institutions does not ensure a claim for share in the resources. The word 'religious minorities', if allowed, to claim reservation on the same basis will be catastrophic for the majority community to tolerate. The claim on reservation basis will authenticate and ensure the share of minorities in the resources. The majority community in power remains consciously attentive not to do such a justice. They have already made a mistake by giving reservation to the scheduled castes. The benefit, however, restricting the marginalized scheduled caste in converting to the other religions. Prof. Tahir Mahmood writes that if a Scheduled Caste Hindu, Buddhist or Sikh were to embrace Christianity or Islam, he would lose his SC status and all its attendant privileges. But should he ever returned to his original faith, the privileges would be automatically restored. (Mahmood, 2006:15).

The presence of minorities with its identity further makes the majority group intolerant human beings. The presence in the field of science and technology, defense, policy making, executive, judiciary, politics, party formulation is seen with suspicion.

- **Planned development was considered necessary to take up national initiative for socio-economic development for removing the distortions of the past through a conscious policy of state intervention into the highly iniquitous social stratification structures.** (Ranganath Mishra, 2006: 72).

Probably it is the natural tendency of human being to exploit the weaker people with no exception to religious majority of Indian population. They subjugate under develop, marginalized and socially excluded groups. Scheduled caste people are the good example of this subjugation. Now after much efforts and conscious acts Indian government has slightly succeeded in uplifting this community. Through the provisions added by Dr. Ambedkar, the majority community has compelled to make provisions for the upliftment of scheduled castes and Scheduled tribes but not the muslims who also deserves this favor at economic grounds.

Inclusive policies do little to ensure equal participation in employment for Muslims similarly as Article 29 and 30 do not play an effective role in enhancing their share in employment sector. This can only be possible in the country like India when there would be some obligations on Government for equal access, participation in employment as well as protection and safeguards for availing the equal access for minorities in general and Muslims in particular.

- **The Constitution of India provides a strong framework for socio-legal action for removal of disparities :**
  - (a) by writing in the equality clauses prohibiting discrimination on the basis of religion, race, caste, sex, or place of birth and**
  - (b) empowering the state to make special provisions for women and children and for the historically disadvantaged sections of population, the Scheduled castes and Scheduled Tribe and other backward Classes (OBC) (protective discrimination) in violation of the fundamental obligation of non-discrimination.**

It can be safely inferred from the above clause that religious minorities are again at the receiving end but only on papers. They have been provided equality in written form rather than equality on the basis of protective Acts or safeguards. Discrimination is being prohibited on the basis of religion. But discrimination is not easily discernible; discrimination is difficult to be proved. In order to show honesty in providing equality the Constitution should be amended, that is quite difficult task in the absence of significant representation of religious minorities especially Muslims for adding the protection (strong like SC/ST Prevention against Atrocities Act, 1989) against discrimination and safeguards to access equality. The Constitution, however, has been amended as much as 120 times in the history of 67 years of Indian independence. The feature of social justice of the Indian Government would be tested if the constitution gets amended in favor of Indian minorities especially Muslims and Christians.

Discrimination, the other side, on the basis of caste is also prohibited. The Constitution framers prohibited discrimination on the basis of sex. However, added the special provision as a safeguard for the equal participation and access of women to the resources. The prohibitions of discrimination on the basis of caste have significance but not on the basis of religion as it visible from biased reservation and safeguards policies. These policies are in favor of backward castes and it is not for backward religious communities especially Muslims. This differential treatment needs to be checked for creating satisfaction among all the sections of the society.

The Constitution provides a strong framework for socio legal action for removal of disparities. It did add other sections of society by mentioning 'historically' disadvantaged sections. In post independence period of India, a large number of schemes and programmes are being directed to integrate the historically disadvantaged sections of society to include the SCs, STs, minorities and women in the mainstream of national development and in-turn to provide social justice to these groups. But this is only a theoretical approach and social justice can best be implemented when people are committed to principles of equality and respect for diversities which is doubtful. The irony with the Indian Constitution is that it only emphasizes absolute and unconditional equality of all religious faith in the country. This does have no strong base to protect such an idea of 'absolutism'. According to Amratya Sen absolute and unconditional equality is imaginary concept and in reality it is not possible.

The Indian Constitution does not have any strong foundational base for unconditional equality. The idea of inequality based on hierarchical structure of caste is discernible in the acts and provisions of the Constitution. Thus, it promotes the idea of privileged and non-privileged sections of society with little change in the practice of marginalization, exclusion and deprivation. The only difference is the change of target. Presently, Muslims are prime target of exclusion. Acceptingly, such policies and programmes may be proved beneficial for the extremely poor minorities, if successfully accessed, but fails to bring equality among the different sections of society. Thus, this lopsided development and unequal structure of society will remain in existence.

Programmes for poverty alleviation are beneficial for the reserved categories. The poor from the SC, ST and OBC categories will be successful in reducing poverty. These efforts may act as an anchor to uplift disadvantaged sections and their upcoming generations up to the top rung of the developmental ladder. This anchor will be their reservation quota initially. The findings can, however, be used to assess the quantitative impact of various flagship programmes meant for excluded groups. With regard to the Muslims, the report shows decimal improvement in only few indicators literacy rates, per capita availability of food resource etc. However, the increase has been marginal and rate of growth still much lower

than for the other disadvantaged groups like SC/STs. The situation is more or less the same as that has been presented by the Sachar Committee report. There is a high concentration of Muslims in urban areas, making the incidence of poverty more visible there. (Sachar Committee Report, 2006). The findings of Sachar Committee report in this regard are as follows.

### [POVERTY INDICATOR]

According to the report, in 2007-08, 23.7% of Muslims in urban areas and 13.3% in rural areas are poor. Compared to SC/STs and other social and religious groups, urban poverty is highest amongst Muslims, and rural poverty amongst Muslims is also higher than that of other religious groups and other backward classes (OBCs). The rate of decline in poverty has also been the slowest among the Muslim community from 1993-4 to 2007-8. The urban poverty has only declined 1.7 points for Muslims. The SC/ST community urban poverty has declined by 28.2 points and 19.5 points respectively.

### [LITERACY INDICATOR]

A similar trend witnessed with literacy figures when compare 2004-5 with the 2007-8 reference period of the report. Urban literacy in general from 1999-2000 to 2007-8 has increased from 69.8% to 75.1% and rural literacy from 52.1% to 63.5%.

To compare the rate of increase of literacy amongst Muslims with other social and religious groups, it is the lowest. Urban literacy in the SC group has increased by 8.7 points, the ST group by 8 points and among Muslims, it has increased only by 5.3 points.

### [HEALTH INDICATOR]

The decrease in the infant mortality rate (under-5 years) for Muslims between 1998-9 and 2005-6 is 12.7 points, whereas, these figures are 31.2 points for SCs and 30.9 points for STs. Thus, from the data discussed above, it can be safely said that the socio-economic status of the Muslim community is not improving at the same rate as other social and religious groups. This finding is also supported by findings of Ayesha Pervez, 2012. (Accessed on 08.05.2013)

- **The Eleventh Plan aims to reduce disparities across region and communities by ensuring access to basic physical infrastructure as well as health and education services to all. Educational programmes need to be continued with redoubled vigour among all other backward sections including minorities, particularly among Muslims, who have fallen far behind the national average in all aspects, particularly in the field of education.**

Today, globally Muslims show the lowest literacy rate. <http://www.islamfortoday.com/syed07.htm>. Studies on human cognitive development have established that literacy enhances the critical faculties of individuals and enables them to reflect on the existential reality in which they have been placed (Katiyar, 2008). Education not only provides profound knowledge and expertise but is supposed to play a broad spectrum role in developing social, cultural and moral values in an individual. It gives right direction to desires, emotions and outward behavior of individuals which reflects in the total personality (Dayal, 2008).

Education is a vital factor in the social transformation of a society and its economic amelioration (Sachchidananda, 1977). Thus education of any community with no exception to Muslims will not only be helpful for their development but also for the development of the whole nation. Studies on the sources of development demonstrate persuasively that education plays a major role as a factor in rise of output per worker.

The policies and programmes will have to be properly implemented in areas dominated by backward communities of poor Muslims. The plan will explore ways of creating incentives for students belonging to these communities and work towards the economic and political empowerment of Muslim women by increasing their presence in decision-making bodies.

A 15 point programme for the Welfare of minorities has been circulated to all state governments which reflects a new beginning and has the potential of improving the quality of life of Muslim population. The programme is clubbed with existing welfare schemes like the IAY, ICDS, SSA, MGNREGA, etc, wherein it aims to locate a certain proportion of development projects in minority dominated areas. This Prime Minister's 15-Point programme covering issues of education, employment, housing and credit have also failed to address Muslim deprivation, or deliver any benefits to poor Muslim communities.

Clearly, this suffers from the same drawbacks as the MSDP wherein the unit for planning is the district and projects can be located anywhere, not necessarily in Muslim dominated areas. Also, vagueness in terms like "certain portion" and "wherever possible" allows ample room for biases to be activated and sustained. Moreover, individual beneficiary schemes like the MGNREGA or SGSY are demand-driven; therefore, 15% does not apply to it in practice. (Ayesha Pervez, 2012). <http://infochangeindia.org/humanrights/analysis/persistentexclusionofmuslimsinml> (Accessed on 08.05.2013)

- **Arrangements should be made to set up it is and polytechnics by government or private agencies in predominantly minority areas to encourage admission in such institutions of adequate number of persons belonging to these communities.**

There is no pressure developed by minority dominated areas on the government for setting up of the ITIs, therefore, no such effective efforts has ever been sincerely taken by the state or by the private agencies. Muslim community, too, did not have foresighted vision so that by can insist the government to establish institutes for the larger benefit of the community. This is partially the result of unawareness of the concerned community. Apart from the people or the greedy members from the minority community who somehow has got the opportunities of handling such schemes are mainly concerned with their own benefits.

## CONCLUSIONS

In post independence India, a large number of Constitutional and Legislative measures and many forward looking policies and programmes have been directed at integrating the historically disadvantaged sections of society namely, the scheduled castes, scheduled tribes, minorities and women in the mainstream of national development. A low level of interest has been shown towards involving the minorities. The minorities have been named under the state and central government schemes. Recently, the Uttar Pradesh government has declared twenty percent quota for minorities in the eighty five schemes for the poors running under the control of state government. However, these schemes would be

utilized precisely for the minorities or the fund would be used for their development. However, the effects of these efforts go in vein until and unless the proper dissemination of information would not take place. Apart from it, the non-access of minorities to the government offices especially due to indifferent attitude of the government officials is also one of the reasons for low utilization of government policies directed to the minority welfare. It is also desired from Muslim community organizations, NGOs to generate awareness among them and to mobilize Muslims towards availing benefits out of the proposed schemes under 11<sup>th</sup> plan and 15 point programme as mentioned before.

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