

Backward Minorities in India-

The Role of National Commission of Minorities

Maulavi Abussabah Ahmed Ali Memorial Lecture

-Wajahat Habibullah

India represents an unprecedented experiment in nation building after centuries of being part of empires that have laid the foundations of geographic boundaries. This experiment is unprecedented because it digresses radically from the idea of a Nation State based on European experience, which based these boundaries on the strength of ethnic, linguistic and religious commonalities. In framing its Constitution India gave to itself a unitary government with a federal bias. Emerging from a bloody Partition amidst doubts that India could hold together as a modern democracy, India sought to weave itself together with, while acknowledging diversities, particularly of caste, religion, education, culture and language, allowed for minimum political autonomy to ethnic diversities. How has this worked for India's minorities? Given her diversity, what indeed constitutes India's minorities?

A central government notification of 1993 classifies India's religious minorities as Muslims, Christians, Sikhs, Buddhists and Parsis, which together constitute 18% of India's population, with the Muslim community constituting 13%, the remaining making up the rest. And this classification has been upheld by India's Supreme Court which, in its ruling in *Bal Patil vs. the Union of India* (2005) has held that, while India is an entity composed of minorities, these communities have indeed faced challenges in exercise of their rights under the Constitution of India, notably the rights contained in Articles 29 and 30 which guarantee minorities the right to freedom, culture and religion, and therefore deserve specific consideration.

The Planning Commission's *India Human Development Report 2011* focuses on Scheduled Castes, which includes a major section of Buddhists, Scheduled

Tribes, of which Buddhists and Christians form part, which have traditionally been regarded as the excluded groups, and Muslims. The report has focused primarily on income poverty, education, employment, health and infrastructure. The findings, then give at best a partial picture of status. Notwithstanding, together with other sources, they can be used to assess the quantitative impact of India's various flagship programs meant for 'excluded' groups.

Although the report shows improvement on a few indicators as regards Muslims, the increase is only marginal and the rate of growth much lower than for Scheduled Castes and Scheduled Tribes. The situation has improved little since a report of 2006 of the committee set up by government, known as the Sachar Committee. Muslims live primarily in urban areas, making the incidence of poverty more visible there. According to the 2011 report, in 2007-08, 23.7% of Muslims in urban areas and 13.3% in rural areas were poor. Compared to Scheduled Castes and Scheduled Tribes, and other social and religious groups, therefore whilst urban poverty is highest amongst Muslims, rural poverty amongst Muslims is also higher than that of other religious groups and, indeed, than that of other backward classes (OBCs). Besides, the rate of decline in poverty has also been slowest in the Muslim community: from 1993-4 to 2007-8 urban poverty has declined only 1.7 points, whereas for the Scheduled Castes and Scheduled Tribes community urban poverty has declined by as much as 28.2 points and 19.5 points respectively.

Literacy shows a similar trend when we compare 2004-5 with the 2007-8 reference period of the report; urban literacy in general (from 1999-2000 to 2007-8) is indeed found to have increased from 69.8% to 75.1% and rural literacy from 52.1% to 63.5%. Nevertheless, if we compare the rate of increase of literacy amongst Muslims with other social and religious groups, it is once more the lowest. Urban literacy in the Scheduled Castes has increased by 8.7 points and among the Scheduled Tribes by 8 points. Amongst Muslims, it has increased by only 5.3 points. Similarly, with health indicators, the decrease in the under-5

mortality rate for Muslims between 1998-9 and 2005-6 is 12.7 points, whereas it is 31.2 for Scheduled Castes and 30.9 for Scheduled Tribes.

Sadly therefore, the gap in the rate of decrease in poverty, illiteracy, infant mortality rate (IMR), etc, when compared to other social and religious groups, reiterates the Sachar Committee's stark findings in its report of 2006 that the Muslim community has not benefited from development in terms of socio-economic status at the same rate as other social and religious groups.

The Sachar Committee report was the first that went beyond the coverage of minorities in general to specific reference to the Muslim community. It revealed the failure of India's policy, declared since Independence, of inclusion of the Muslim community, designed to counter what were looked upon as the specious arguments that had precipitated Partition. The diligently reasoned report established extreme deprivation of Muslims in India and the demeaning status that the community had been reduced to, laboring under numerous exclusionary situations of violence, insecurity, identity crisis, discrimination in the public sphere, and, in the inevitable aftermath of India's bloody Partition, suspicion from other communities, of being 'unpatriotic'.

What were the major findings of the Sachar Committee report? Muslims record the second highest incidence of poverty, with 31% of people below the poverty line, following Scheduled Castes and Scheduled Tribes, who are the most poor with a Head Count Ratio (HCR) of 35%. Not only was the literacy rate for Muslims far below the national average in 2001 but the rate of decline in illiteracy has also been much lower than among Scheduled Castes and Scheduled Tribes. According to the Sachar Committee's findings, 25% of Muslim children in the 6-14 age-groups either never went to school or dropped out at some stage.

In no state of the country is the level of Muslim employment proportionate to their percentage in the population, not even in the State of Jammu & Kashmir with a

66% Muslim population. West Bengal, where Muslims constitute 25% of the population, and where the left had consistently had Muslim support, the representation in government jobs, is as low as 4%. Not only do Muslims have a considerably lower representation in government jobs, including in public sector undertakings, compared to other excluded groups, Muslim participation in professional and management cadres in the private sector is also low. Their participation in security-related activities (for example in the police) is considerably lower than their population share, standing at 4% overall. Other figures on Muslim representation in civil services, state public service commissions, railways, and the department of education, are equally discouraging.

The Sachar Committee therefore made a number of recommendations that sought to institute mechanisms to ensure equity and equality of opportunity to bring about inclusion that would be such that diversity is achieved and at the same time the perception of discrimination is eliminated. The report concludes with the comment that *“issues relating to disparities across socio-religious communities are of utmost importance to our nation today. If this Report contributes in any way in constructively dealing with these issues and in facilitating a more informed discussion on them, the Committee’s efforts would be well rewarded.”*

A subsequent report by the Justice Ranganath Mishra Commission, published in 2007, which examined the conditions of all minorities, further emphasized the deplorable condition of Muslims on socio-economic indicators and endorsed the findings, arguments and recommendations of the Sachar Committee report. These statistics show that Muslims have been denied equal participation in the development process (evident from poverty and discrimination indicators), have been denied fair and equal access to justice in the case of both targeted violence during communal riots as well as day-to-day, and identity-based discriminatory practices in accessing rights and entitlements.

Nevertheless, each of the communities classified as minorities under the National Commission of Minorities Act 1992 have their own distinct problems, although they vary. Thus while education is a strength of the Christian community 80% of whom are converts from SCs, they have, together with Muslims, been by legislation denied the benefit of constitutional provisions for SCs, a matter now before the apex court, in which NCM stands impleaded as party. Many Sikh families, particularly in Haryana, are still seeking rehabilitation after the riots that took thousands of Sikh lives in North India in 1984. Buddhists face threats to their places of worship, including the supreme sanctum of Bodhgaya. Parsis, otherwise a prosperous community face decimation of their population strength

With this background, it is important to reflect on the response of the Indian state in addressing this exclusion, and whether indeed the human rights of this group are safeguarded within a strong policy and legal framework. It is also important to reflect on how Muslims have used the democratic space being provided to India's citizens by its Constitution to articulate their demands and defend their constitutional rights. Such reflection is particularly apposite at this time with the result of the national elections of 2009 and State elections thereafter, which reflect a decided maturing of political consciousness.

Exclusion from development schemes and non-implementation of policy suggestions

Government response to the Sachar Committee report was to launch the Multi-Sectoral Development Programme (MSDP) in 2008, aimed at upgrading infrastructure in 90 districts spread over 20 states of Indiaⁱ where minorities comprise 25% or more of the population, identified as minority concentration districts (MCDs). These 90 MCDs identified after an examination of districts throughout the country are also relatively backward, falling behind the national average in terms of indicators for socio-economic status and access to basic amenities. Under the MSDP, district-specific plans focus on provision of better

infrastructure for schools and secondary education, sanitation, secure housing, drinking water and electric supply, besides beneficiary-oriented schemes to create income-generating activities.

Nevertheless, it is the exclusion of minorities that stands out in the present planning, design and implementation of the Multi-Sectoral Development Programme. The government has failed to make Muslims a target group and instead brought the scheme in under the larger umbrella of “minorities”, contrary to the recommendation of the Sachar Committee report that the Muslim community needed targeted interventions to bring it socially and economically at par with the mainstream.

Also, the MSDP is flawed inasmuch as it leaves out large numbers of minorities from its schemes by concentrating only on districts which have an ‘economically backward’ minority concentration. Thus the MSDP covers only 30% of the Muslim population of India, entirely ignoring Muslims in non-MCD districtsⁱⁱ. Another major shortcoming is that it takes the district as the unit of planning rather than villages or blocks with minority concentrations, which would have made benefits accessible to more if not all.

Even for the small percentage of Muslims who are covered under the MSDP program, there have not been very positive outcomes. In fact, the community has experienced exclusion in the identification of areas for development, allocation and delivery mechanisms even in those MCD districts. This identity-based discrimination was highlighted in a recent study by the Centre for Equity Studies (CES) in 2011, entitled ‘Promises to Keep’, which evaluated ‘flagship programs’ for minority development initiated as a response to recommendations by the Sachar Committeeⁱⁱⁱ. The study, which selected three districts in three states -- South 24 Parganas in West Bengal, Darbhanga in Bihar, and Mewat in Haryana - - says that despite the focus on minority districts, the Muslim community was not benefiting much as officials were often under orders to avoid Muslim villages,

hamlets or urban settlements in plans designed by them. This conclusion is substantiated by reports of India's National Commission of Minorities on Districts Bagpat of UP and Araria of Bihar, with a Muslim population of 25% and 41% respectively. In consequence, although money from this modestly funded program is spent on districts with a greater proportion of Muslims, these studies have found that the programs selected were neither located in nor benefited Muslim populations. In Mewat district in Haryana -- with a Muslim concentration of 80%, most of the Meo community, in a state in which Muslims constitute barely 5% of the total population -- there are less than 5,000 Muslim students in secondary school. When I visited a Muslim village in the adjoining Meo area of Palwal District I found the primary school had, in the words of the CES on schools in neighboring Mewat District, "a dilapidated building, barren courtyard and dingy classrooms". Instead of spending MSDP funds to upgrade the school, the government preferred to spend money on a neighboring wealthier non-Muslim village. This pattern was repeated in all the other districts visited by the CES. In Darbhanga, under the Sarva Shiksha Abhiyan-a scheme to universalize education-in 2009-10, 66 new primary schools were opened ostensibly to enhance access for children from minority backgrounds. Curiously, only seven of these were in Muslim-concentrated areas. The Mewat, Araria and Bagpat cases also establish that even when funds do go to a district with a high concentration of Muslims, the money fails to reach the community as the authority's negligence or outright discrimination makes them divert funds to non-Muslim villages. The NCM has therefore recommended to government that the administrative unit of a Block, a sub-unit of a District devised in the '50s to channel development finance, be made the deciding factor in assignment of finance under the MSDP rather than the District. This will also bring Muslims in states like Rajasthan, which has Blocks with a Muslim population of as much as 70%, but not a single District qualifying as an MCD, under the spread of the MSDP; and exclude such areas, in existing MCDs, that do not have the minimum requirement of population.

For this reason the Steering Committee of the Planning Commission in its report on 'Minority Empowerment', recommends that the Block should be the administrative unit and that towns and villages falling even outside MCDs/MCBs be covered. This can be achieved by ensuring that the target beneficiaries are identified at the stage of planning.

Various key recommendations of the Sachar report fare little better. For instance, establishing an equal opportunities commission with a structure and membership along the lines of the National Human Rights Commission (NHRC) to examine and analyze the grievances of deprived groups, and making equal opportunities a legal right; developing a 'diversity index', a statistical tool to measure exclusion in specific areas (education, housing, etc) which can be used for inter-institutional comparisons as well as to assess patterns over time which, in turn, will help in policy targeting; enhancing Muslim participation in governance. This proposal has foundered in the face of opposition from vested interests from other 'excluded' groups that see themselves as already benefitting from existing structures.

Minority-related schemes like the Prime Minister's New 15-Point Program, replacing a similar program dating from the time of Prime Minister Indira Gandhi, covering issues of education, employment, housing and credit have, except notably in the school scholarship program, but that too only in some states, also failed to address minority deprivation, or deliver any benefits to the bulk of poor minority communities. The program is clubbed with existing welfare schemes like the Indira Awas Yojana (IAY), Integrated Child Development Scheme (ICDS), Sarva Shiksha Abhiyan (SSA), Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA), etc, wherein it aims to locate a certain proportion of development projects in minority concentration areas and, 'wherever possible', earmark 15% of target and outlays under these schemes for minorities. 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 minority-

concentration areas. Also, vagueness in terms like “certain portion” and “wherever possible” allows for biases to be sustained. Moreover, individual beneficiary schemes like the MGNREGA or SGSY are demand-driven; therefore, 15% cannot apply to them in practice. The Steering Committee of the Planning Commission in its Report mentioned above has therefore recommended rewording of guidelines to ensure that the minorities are identified in earmarking the intended beneficiaries.

The Ranganath Mishra Commission report (2007) recommended 10% reservation for Muslims in central and state government jobs and 6% within OBC quotas for Muslim OBCs, and the inclusion of Muslim and Christian dalits among scheduled castes, are yet to be implemented. Many argue that a large section of Muslims is already covered under reservations meant for other backward classes (OBCs). However, Sachar’s report has put paid to that myth. In the context of Muslim OBCs, the committee concluded that their abysmally low representation suggests that any significant benefits of entitlements meant for the backward classes are yet to reach them. The committee also concluded that “the conditions of Muslims in general are also lower than the Hindu OBCs who have the benefits of reservations”. Recent efforts by government of India in introducing a 4½ % reservation within OBC quotas for Muslim OBCs have met with resistance.

The report shows that up to the matriculation level in education, Hindu OBCs trail behind the national average by 5%, while the figure for Muslims in general and OBC Muslims is 20% and 40% respectively. When it comes to education up to the graduate level, general and OBC Muslims trail by 40% and 60% respectively. In the field of employment in formal sectors, general and OBC Muslims trail the national average by as much as 60% and 80% respectively. Even in landholdings, Muslims are far below the national average: general Muslims: 40% and Muslim OBCs: 60%, whereas Hindu OBCs is approximately 20% below the national average. General and OBC Muslims are poorer by 30% and 40%

respectively than the national poverty level, while Hindu OBCs are less poor by 10%. So the reservation policy meant for OBCs has not impacted Muslim OBCs.

Minorities' Commissions

The National Commission for Minorities (NCM) which was constituted by the Government of India in 1978 and became a statutory authority in 1992, to monitor the development of minorities in India has been ineffective in addressing the grievances and developmental gaps of the Muslim minority. The functioning of the Commission has been limited to issues like investigating complaints. The NCM lacks both the financial and political autonomy needed for independent and effective functioning. In 2009-10, its budget was Rs 451 lakh, 72% of which went towards paying salaries (Rs 323.43 lakh). The National Commission for Scheduled Castes and National Human Rights Commission have more political leverage than the NCM, and they are more independent. But like them, reports from the NCM are not binding on the Government of India. 13 states in India are yet to form state minority commissions^{iv}. It is not surprising that Gujarat, a state where Muslims suffered what has been described as a pogrom in 2002 and are not only victims of communal violence but also of state impunity for perpetrators, is amongst those 13 states.

The NCM has attempted to address the critical issues of socio-economic exclusion and discrimination suffered by Muslims in India. But the Commission could have played a pivotal role in evaluating the progress of minorities, especially after the findings of the Sachar Committee. It has instead, for want of effective state mechanisms, failed to effectively monitor the MSDP or the Prime Minister's 15-Point Program. Three years after these schemes were initiated, the NCM decided in September 2011 to present a statement of implementation of the Prime Minister's 15-Point Program every month in the Commission, that too on the basis of reports from state governments.

In relation to recent incidents of communal violence, however, the Commission has been more effective in gaining redress for victims and action against defaulting policemen, notably in the October 2011 violence in Bharatpur District of Rajasthan, which had left 9 dead, all Muslims of the Meo community, and the principal mosque of the township seriously damaged.

3 *Ineffective Ministry of Minority Affairs.*

Similarly, the Ministry of Minority Affairs (MoMA) suffers limitations in delivering its mandate. The ministry was constituted in 2006 to target socio-economic conditions specifically of minority communities through affirmative action and inclusive development. It is responsible for mainstreaming the minority community, initiating development programs for the socio-economic uplift of minorities, coordinating between central and state agencies to implement minority-related schemes and programs, and monitoring and evaluating these. MoMA has indeed taken steps like identifying minority-concentration districts, which now number 90, launching schemes like the MSDP, scholarships for minorities, monitoring the Prime Minister's revived 15-Point Program, etc. Yet it has failed to effectively address the poverty and exclusion of Muslims, a shortcoming arising principally from weak coordination with other central and state departments, which are not answerable to MoMA for inadequacies in implementation. The Prime Minister's 15-Point Program suffered the most because of this: no single authority actually owns this program as it only calls for earmarking 15% of outlay and physical targets for minorities in other selected welfare schemes without prescribing any mechanism, making it a top-up approach. The CES study says that the "*ministry is ill-equipped to accept innovative ideas and ways of working, engage creatively with stakeholders to deliver targeted interventions for Muslims*".

What emerges then is that institutions and development programs meant for minorities have not thus far delivered much by way of addressing the exclusion of minorities save reiterating the bias and discrimination faced. And apart from

faring poorly on development indicators, Muslims in particular live in an insecure environment where they face targeted and communal violence on a regular basis, coupled with day-to-day discrimination in accessing rights and entitlements. How has government responded? We have already discussed the response of the Planning Commission to implementation of development programmes. The report of the Steering Committee has also for the first time sought to address the fertility crisis in the Parsi community. But government has also sought to address administrative issues.

Communal violence and response of the government

Targeted communal violence like the Mumbai and Gujarat riots of 1993 and 2002 are heavily publicized. However many less known riots regularly take place in India, the most recent being the Moradabad riots in Uttar Pradesh in August 2, 2011, the Bharatpur riots in Rajasthan in September, and the Rudrapur riots in Uttarakhand in October, 2011. On 4th June, 2011, the NCM received an email from Zahidul Haque of Araria, Bihar together with a petition complaining against the killing and gross violation of the human rights of the minority community in village Bhajanpur under Forbesganj PS of Dist. Araria. The petitioner reported that several Muslims had been killed in police firing, including a ten month old baby boy named Noshad. This incident and all these recent cases of communal violence have seen the trend of police complicity wherein they have colluded not only with the dominant community but also with right-wing groups to perpetrate violence against the Muslim minority. The violence in Bharatpur claimed nine lives, all Muslims; 19 of the 23 grievously injured were also Muslims; a mosque was vandalized; and perhaps the most glaring aspect of this incident was that the police fired 219 bullets at the mosque and at Muslims. An NGO, the Rajasthan Muslim Forum, the delegation of which had also met the Members of the NCM at Khasa Kothi on the Commission's visit to Jaipur, complained that Muslims feel harassed and there is nobody to listen to their woes. According to the assessment of the National Commission of Minorities the police capitulated or

worse, not only before the Gujjar community on the aggressive, but also under the pressure of local cadres of the radical RSS, VHP and Bajrang Dal.

The Commission brought to the attention of the government of Rajasthan, in a meeting with the Chief Minister and his colleagues in Jaipur on November 4th, that the local population was dissatisfied with the amount and disbursement of relief provided and with measures taken^y. It was therefore, recommended that the State consider adopting standard relief measures contained in Schedule IV of the NAC draft of a 'Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011'. Chief Minister Ashok Gehlot, after verification, agreed that this proposed standard compensation would be adopted for application in the Gopalgadh incident. NCM has been receiving monthly reports since of the State's implementation of its recommendations. Yet, in the meeting of the State Minorities Commissions hosted by the National Commission on March 14, complaints were still voiced by delegates from Rajasthan of inadequate compensation for damage to houses.

Police excess against the Muslim minority were again evident within three weeks of the Bharatpur violence, when Muslims in Rudrapur (Uttarakhand) went to the police to complain about two incidents of desecration and burning of the Quran within a span of three days. Both times they were sent back with only an assurance that action would be taken against the miscreants. Not only did the police refuse to lodge an FIR, they also took no action against the culprits. When the group of Muslims protested and refused to leave the police station without an FIR being lodged and action taken, the police started a lathi-charge, which resulted in stone-pelting by protestors. In response, the police opened fire killing four Muslims and injuring many others. A Hindu mob that had gathered during the firing began destroying shops and setting vehicles on fire. The fracas was followed promptly by a visit of the State Chief Minister General Khanduri, who took action against the administrative leadership of the District. But in

subsequent arrests, among those accused of killing Muslims in rioting were three Muslims!

In both cases, NCM intervened through visits of members and recommendation of action to the State governments. But to be noted here is that, in both incidents, Muslims merely approached the police to demand action instead of behaving as the miscreants had. Instead of controlling the situation by taking immediate action, the police played the role of catalyst in escalating the violence. The police's response of not only denying justice but actually participating in the rioting against Muslims reiterates the communal bias entrenched in the police machinery. To address this kind of bias, and stem the level of mistrust felt by the minority towards the justice mechanism, which had resulted in deep skepticism about the state's protection and justice machinery, the National Commission of Minorities had made Police and Minorities the subject of its annual Conference of Minorities Commissions held in New Delhi on March 13 and 14, 2012.

India has faced communal riots ever since the onset of colonial rule, But since Independence, on most counts, victims have failed to get justice and the perpetrators have never been held accountable despite the rule of law, in the absence of any strong and exclusive legislative tool to address this violence. In all these cases, existing provisions of India's Penal Code (IPC) have proved inadequate in addressing targeted violence. Yet, the trial of policemen charged with murder^{vi} at the instance of no less than the then Prime Minister Rajiv Gandhi, in the killing of 40 Muslim youth in Hashimpura in western UP, while in police custody after riots in Meerut in 1986, still lingers in the Sessions courts, and the criminal policemen have continued with regular service, including promotion, many by now having retired with honors.

These limitations are sought to be addressed in the pending Communal and Targeted Violence (Prevention) Bill, in which all of NCM's recommendations are included in the draft prepared by India's National Advisory Council (NAC). The

most remarkable aspect of the proposed legislation is that it holds public servants accountable for their negligence or willful failure in controlling riots. An officer can be prosecuted if he fails to act without adequate reason. Not only the complicit officer, his superior officer too can be punished for failure in command, if it can be proved that the superior had information about the situation and he failed to issue appropriate orders and directions to his subordinate. The bill will also give rights to victims to be heard during the trial, and make the trial procedure more flexible and victim-friendly. This includes witness protection. Relief, restitution and compensation become the right of every victim of communal and targeted violence. Compensation will be in accordance with loss and damage; victims will have to be rehabilitated in their areas, and the state will have to ensure the safety and security of rehabilitated victims. The bill also defines the new offence of sexual assault which goes beyond a narrow definition of rape. It also constitutes a National Authority for Communal Harmony, Justice and Reparation and a state authority of the same name the objective of which will be to prevent acts of communal and targeted violence, control the spread of organized violence, monitor due investigation, prosecution and trial of offences, and monitor relief, reparation and restitution in a fair and impartial manner. This feature has however drawn criticism by State governments for its perceived encroachment onto areas considered the responsibility of the States under a Federal Constitution.

The draft bill, which still has to see a debate in Parliament, has also been attacked by right-wing groups calling it “anti-Hindu”. But Hindu minorities too are covered under the bill in states where they form a minority population. Kashmir’s Pundit community that had been forced into a massive exodus in 1990-91, and is still to be rehabilitated, although its security stands restored, is covered in the category of ‘internally displaced persons.’ Further, it covers all religious and linguistic minorities in India and includes scheduled caste and scheduled tribe groups. Under the bill, relief shall be granted to all, including minorities, non-minorities, SCs, non-SCs, STs and non-STs affected by communal and targeted

violence. We already have a similar legislative tool in India -- the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act -- which protects particular social groups like dalits and tribals. The new bill has been drafted along similar lines.

Response to day-to-day exclusion of Muslims

In the midst of the debate around the Communal Violence Bill and its focus on targeted violence during riots, government and civil society at large have tended to overlook the need to address day-to-day discrimination, practices of exclusion, and insecurity faced by members of the Muslim community. The Muslim minority is clueless about how to deal with open or subtle discrimination when they attempt to access services and infrastructure such as banking; when they are denied access to mainstream society's spaces and public spaces like housing, space for shops or businesses, etc; when they are labeled terrorists or supporters of fundamentalism, or even Pakistan supporters; when they are denied justice, such as the police refusing to file cases, failure to punish perpetrators or being detained on false charges of terrorism, etc.

The Sachar Committee report highlights how Muslims are constantly looked upon with suspicion not only by certain sections of society but also by public institutions and governance structures. Muslim women in burqa complain of impolite treatment in the market, in hospitals, in schools, in accessing public facilities such as public transport, and so on. Apart from the reluctance of owners to rent/sell property to Muslims, several housing societies in 'non-Muslim' localities 'dissuade' Muslims from locating there. Muslims say they feel inferior as "every bearded man is considered an ISI agent"; "whenever any incident occurs, Muslim boys are picked up by the police" and fake encounters have recurred with uncomfortable frequency

These factors play havoc with the morale of the community, especially in a scenario where there are no legal mechanisms to address such a dehumanizing

process. Dalits and adivasis in India are protected by a strong legislative tool like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. As regards the Dalit community, the bill goes beyond physical atrocities and also covers various dehumanizing processes like untouchability and discrimination relating to identity under the definition of “atrocities”. Though the SC/ST Act has seen lopsided implementation, given the lack of political will in removing historical injustices and exploitation of dalits, it has at least provided a strong protective tool in the hands of the marginalized community, wherein all forms of exclusion and discrimination have been defined and covered under the political term “atrocities”. Muslims in India, despite having gone through similar experiences and faced with new forms of insecurity and marginalization, are yet to see their day-to-day discrimination being defined, and any action and commitment on the part of government.

Does the answer then lie in reservation in government employment for Muslims as recommended by the Ranganath Commission? For decades, the issue of affirmative action for Muslims has been a politically fractious one in India. Many opponents, including right-wing Hindu groups, have long argued that affirmative action policies based on religion violate India’s Constitution and run counter to the country’s secular identity. Quotas, they said, should be strictly reserved for groups that have suffered centuries of caste-based discrimination.

But these arguments have been steadily eroded by an undeniable and worrisome byproduct of India’s democratic development: Muslims, as a group, have fallen behind in education, employment and economic status, partly because of persistent discrimination. Muslims are more likely to live in villages without schools or medical facilities, as the Sachar Committee report found in 2006 and less likely to qualify for bank loans.

Now the issue of Muslim quotas has bubbled to the surface in the recent election in the state of Uttar Pradesh, where the winner, the regional Samajwadi Party,

has promised to carve out a quota of jobs and educational slots for Muslims, an idea first raised by the Indian National Congress Party. And a recent effort of the Government of Andhra Pradesh to bring Muslims within the classification of reservations within the OBC, has been struck down by the High Court. Legal and political obstacles therefore remain, and some Muslims are skeptical that leaders will muster the political will to push through a quota, even as many consider such preferences justified and long overdue.

In Uttar Pradesh, the country's poorest and most populous state, with the largest Muslim population, all of India's caste and religious demarcations are on vivid display. It was here that one of India's most searing acts of religious violence occurred in 1992, when an ancient mosque built at the time of the Mughal conquest, was destroyed by right-wing Hindu activists who claimed that it had been built on the site of the birthplace of Rama.

Indians in Uttar Pradesh have also witnessed the political rise of the Scheduled Castes, as the Dalits. Before losing the recent election, Ms. Mayawati, the state's powerful Dalit chief minister, dominated Uttar Pradesh and used her position to reward many of her supporters with jobs, housing and other benefits. Dalits still remain overwhelmingly poor and marginalized in many parts of India, but Ms. Mayawati's extensive use of the reservation quota system and other preferential policies in Uttar Pradesh provided opportunity to many Dalits.

Most Muslims in India are the descendants of Hindus, many of whom were engaged in professions considered lowly in the then increasingly hide bound caste system, which turned to Islam over the centuries, often to gain social status. Yet class affiliations never fully disappeared, meaning that a hierarchy lingered among Muslims in India, in extreme cases with a rigid caste structure subsisting into the twentieth century as in the coral islands of Lakshadweep off the coast of Kerala. Two government commissions sought to include "backward"

Muslims in the quota system by using their former professional identity, along with educational and economic indicators.

As we know, India's four southern states have extended some affirmative action benefits to Muslims, if not explicitly along religious lines, but elsewhere Muslims have largely been excluded. And in the State of UP particularly, many Muslims have watched as Dalit neighbors have on jobs, or college slots, through quotas that, over time, brought better jobs and salaries. But many Muslims concede that they were also to blame because for too long they did not push their children to stay in school. But that has changed. There is today a yearning in the community for education, particularly for girls

Reflection on whether Muslims use the democratic space to protest or demand

How have Muslims and larger civil society responded to exclusion? One of the main indicators of a thriving democracy is the "right to dissent" available to all citizens. In India, agitations like rallies, *dharnas*, fasts, *bandhs*, *rasta rokos*, *rail rokos*, *chakka jams* are characteristic tools adopted by its citizens to protest or to demand. But there is an almost complete absence of the Muslim community in exercising, as a community, the "right to dissent" in any of these forms. No such mobilization of Muslims has taken place except with reference to perceived threats to Muslim personal law and minority identity. Apart from fact-finding reports, journalistic articles and books, issues concerning the violation of human rights of Muslims never translate into agitations and public protest, not even in the state of Gujarat which has seen the most heinous form of identity-based violence in recent years. Muslims in Gujarat hardly come out onto the streets to demand justice, punishment of perpetrators, rehabilitation, or protest against their continuous exclusion and discrimination. Even the Sachar Committee report, which should have seen an emergence of Muslim civil society along the same lines as dalits, adivasis and women, has remained confined to debates within intellectual circles and resulted in a top-down approach to address the problems

highlighted in the report. Several years down the line, non-implementation of the recommendations and the slackness of government have also not created much uproar in the larger civil society, let alone protests and demands from the Muslim community.

This perhaps stems from a feeling of insecurity. There are numerous cases from all over India of Muslim youth and intellectuals being targeted on false security-related charges like terrorism. They have been tortured and illegally detained in police custody. The Muslim community has not reacted the way any other community in India would have. This passivity of the community in an age of democracy where even an Internet-led revolution can kick start a movement and change age-old regimes is disturbing and demands attention from all quarters. Though the question of why they do not come out in larger numbers and demand their rights is something that definitely requires a larger debate, nevertheless some elements that contribute to this passivity are “fear” and “mistrust”. The perception among the Muslim community of neglect and apathy on the part of the government has instilled a deep mistrust about ever realizing rights and entitlements. Muslims are far busier dealing with the day-to-day discrimination they face and proving their identity as “good” Indians.

And this in turn has sparked rising initiatives in whole sections of Muslims, both intellectual and working class who, in partnership with others who are not Muslims but who understand the issues, have taken recourse to civil society initiatives. The Mazdoor Kisan Shakti Sangathan (MKSS), born in Rajasthan in 1990, an NGO credited with having taken the lead in conceiving of and formulating India’s path breaking Right to Information Act, 2005, sought to use modes of struggle and constructive action for changing the lives of its primary constituents, the rural poor. In the period leading up to its formation it had taken up issues of re-distribution of land and minimum wages. These were seen as the two basic issues of the rural landless and the poor of the area. But this endeavor was launched with a declared consciousness that the Muslim community were

prominent among the targeted constituency and required a concerted effort at inclusion.

A Dehradun based NGO, the Rural Litigation & Entitlement Kendra (RLEK) has been working for nearly 4 decades in Uttarakhand. This was set up by a group of vibrant and enthusiastic youth who started development work in the tribal area of the then State of Uttar Pradesh and is now part of the State of Uttarakhand. Today RLEK is working in 6 states Uttarakhand, Uttar Pradesh, Himachal Pradesh, Jharkhand, Chhattisgarh & Haryana. RLEK has, through its work realized how vital human life is to the conservation and sustenance of the environment. This has led RLEK to play a positive role in furthering the cause of human rights and environmental protection within the vast forest areas of Uttarakhand and UP, the habitat of the Muslim Van Gujjar, with whom it has been striving to secure the rights of the community as forest dwellers. In the process RLEK has helped greatly in promoting awareness of the community through education, both adult and child, legal literacy, human health, veterinary health, milk marketing-which is the basis of the earning of van Gujjar-and informal adult literacy

The opening decade of the 21st century has seen the rise of a number of NGOs with a leadership of Muslims, but consciously reaching for the support of civil society in general. ANHAD (Act Now for Harmony and Democracy) is an Indian socio-cultural organization established in March 2003, as a response to 2002 Gujarat riots. Shabnam Hashmi, sister of a slain young Marxist Safdar Hashmi and founder of SAHMAT, Marxian historian Prof. K N Panikkar and social activist and Harsh Mander, an IAS officer who took his retirement from service consequent to that event, were the founding members. Based in Delhi, ANHAD works in the field of secularism, human rights and communal harmony.^[1] ANHAD's activities include secular mobilization, sensitizing people about their constitutional rights, research and publication of books and reports, welfare programs for marginalized sections of society, launching creative mass

mobilization campaigns. It has sought to address issues through convening People's tribunals. It also works as a pressure group among political circles to take action against communalism. Members are often the first to arrive in response to reports of communal clashes. Most recently this was the case in Araria District of Bihar, where three civilians died in police firing, and in Bharatpur District, site of the communal clash between Muslim Meos and Hindu Gujjars, discussed earlier in the presentation.

The Institute of Objective Studies (IOS) , chaired by Justice Ahmadi, former Chief Justice of India, was established in the year 1986 with a view to promote empirical and conceptual research. Research is carried out on ideologies and problems relevant to Indian polity, society, economy, religion and culture. Attention has been focused on the problems of Muslims and other minority groups. The studies include the problems of development processes, community relations, social tensions, status of women etc. Within this period the Institute has established itself as a Centre of research and intellectual activities, which is known for its objectivity in the academic world. Its achievements and program have received recognition from the Economic and Social Council (ECOSOC) of the United Nations. The IOS is in Consultative Status (Roster) with ECOSOC of UN.

The Institute has, since its initiation tried to fill the academic vacuum in approaching societal issues faced by the Indian people in general and Muslims in particular. It has in the opening decade of the 21st century increasingly provided a platform for serious intellectual endeavor in the areas of Social Sciences and Humanities, and became a trendsetter in the fields of conceptual and investigative research on the Qur'anic approach to human problems and the problems of Muslims in India. Various survey projects, which focus on the problems of Muslims and other weaker sections of Indian society, are fulfilling a long felt need for statistical information and analysis in different areas

Political Consciousness

The harsh reality of exclusion has tended to obscure increasing evidence of a growing political consciousness in the community, which has resulted in decisive use of its franchise in elections, influencing the structure of political conglomerates emerging both at the Center and in the States. This was first discernible in the elections to Parliament in 2009. In UP, with an 18% Muslim population which is also the largest in numbers in India's States, the ruling Bahujan Samaj Party (BSP) could win only 20 seats, with the Samajwadi Party (SP), which went on to resounding victory in the State elections of 2012 scoring 23. The Congress, however, with a paltry 22 of 403 seats in the sitting State legislature, took 21. A closer scrutiny will show that although voter turnout was low, Muslim participation in the election amounted to as much as 35% of participating voters. And the preference of the community, despite wide support for Mulayam Singh Yadav's SP, was for the Congress, shrewdly considered the only contender that could prevent the BJP, regarded by Muslims nationwide as hostile to the community, from forming a government at the Center. Revulsion for the BJP was precipitated by young BJP leader, and grandson of Indira Gandhi, now in the BJP, delivering an intemperate speech in his constituency offering to destroy Muslims who dared threaten Hindus.

In 2011 elections to State legislatures were held in Assam, West Bengal, Kerala, Tamil Nadu and Pondicherry. Of these Assam, West Bengal and Kerala have Muslim populations of 31%, 25% and 25% respectively. The defeat of the sitting Congress government in Assam was widely predicted. In Bengal, Communist rule, although now shaky thanks to a vigorous onslaught by the State's Trinamool Congress had persisted since 1967. In Kerala the ruling Marxists had taken a critical stand against Muslim radicals. In each of these States participation by Muslims was high. In Assam, six districts – Dhubri, Goalpara, Barpeta, Nagaon, Karimganj and Hailaknadi – have more than 50 per cent Muslim population. These districts account for 38 of the total 126 assembly constituencies in the state. In addition four other districts have sizable Muslim population ranging from

35 – 45 per cent. An analysis of performance of the Congress Party in Assam shows that the party did well in these areas, going on to win the election and form government. That is how Congress Party in Assam is said to be identified more as party for “Ali” (Muslim) and “Coolie” (tea garden workers).

Similarly in Kerala, Malapuram has a 69 per cent Muslim population and in some districts like Kozhikode, Kasargod, Kannur, Wayanad and Pallakad, the Muslim population is in the range of 27–35 percent. The analysis of the vote share in these constituencies in favor of the Congress and its allies is much more than the overall vote share across the state^{vii}. The result was that although the Marxists were returned as the largest single party the Congress and its ally the Indian Union Muslim League, commanded, between them an absolute majority.

In West Bengal results of 2011 show a virtual turnabout in the sharing of seats in the State assembly between the Left Front and the Trinamool. It is not difficult to see that this is because of the turnaround in the Muslim vote that had been hitherto stoutly supportive of the Left, despite the discrimination and neglect suffered as so graphically described by the Sachar Committee report. This had been because quite simply the Left Front had offered sustained security of life in a State that had been beset with communal disturbances since the early twentieth century, and through its system of local government, offered Muslims a sense of participation in governance. This aura had been shattered with the violence consequent to acquisition of land for industrialization in Nandigram, a Muslim dominated area of Bengal, where police firing had resulted in death and injury and common folk, particularly the peasantry, felt dispossessed by the acquisition of their lands. And in the UP elections of 2012 Mayawati, who headed the government in the BSP of the State, ascribed her rout, reducing her share of seats to 80, squarely, on the fact that 70% Muslims had turned to the SP.

But here the critical issue will be to hold the political leadership so elected to account. India’s Right to Information Act seeks to set out a practical regime to

secure access to information controlled by all sections of the body politic, the executive, the judiciary and the legislature (hence all elected representatives) “in order to promote transparency and accountability in the working of every public authority.” And this access is vast. Under Section 2(f) of the Act “Information means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.” And in recent elections the practice has already begun, notably in the State elections in Delhi in 2007, for constituents to demand replies from campaigning candidates and organizations that they might have headed as part of government, on the action taken by them in response to public demands and promises.

This may be placed in the context of the decentralization now mandated by the Constitution of India, wherein it makes every village a self-governing unit: Section 243 (d) of the Constitution of India reads: "Panchayat" means an institution (by whatever name called) of self-government¹ constituted under article 243B, for the rural areas. The objective of Prime Minister Rajiv Gandhi in bringing this amendment was to give voice to those without voice in the governance of their own neighborhoods. But the decentralization sought has not thus far become a reality. Given that the Gram Sabha under the Constitution is expected to be a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level, it was hoped that this provision would give each individual in his own habitation the power of a legislator; Hence the importance for the Muslim community, the challenges before who have been described. But this fact should illustrate that the instrumentalities for rectification exist, and although they have not been widely adopted thus far, for a host of reasons, not least among which is resistance from the existing establishment, these have begun to be used. “Social audit” has

¹ Underlined by me for emphasis

become a catch phrase and its exercise has invariably been effective although admittedly this has been limited.

Conclusion

The fundamental rights of equality and equal opportunity have not been realized in the context of the minorities in India, where various exclusionary forces are entrenched deep in the systems and mechanisms that have kept Muslims on the fringes of the development process of this country. To address this government must act proactively to create an environment where, first and foremost, minority communities feel protected and that they have access to strong legal tools and redress mechanisms already extant in the system, to address specific forms of exclusion and protection of its human rights.

Nevertheless, the community has become increasingly conscious of its political clout. If this is used in ensuring access to the rights available to the community under India's Constitution and laws, weaving into the democratic fabric, the future holds promise. So, as we have gathered today in memory of the pioneer in social uplift of Muslims, Maulavi Abussabah Ahmed Ali, whose College stands now a glowing tribute to his memory, we must pledge to work together to ensure such a future for our country.

I might conclude with an exact replication taken from the internet, of a letter received by me by e-mail on Friday, April 13, 2012, which will, I hope, demonstrate the access to authority that a member of the minority community, like every Indian today enjoys, and sums up the gist of my discussion:

“To,
The Chairman
National Commission for Minorities
New Delhi

Sub:- PM's New 15 point programme is not properly enforced in Bihar state
Sir,

I humbly submit that the PM's New 15 point programme is not properly implemented in letter and spirit as per guidelines .

Infect there is no such committees are constituted neither in the state level nor in district level for the benefits of the minority communities.

As because it has been initiated by the P.M.O, the govt of Bihar is not seriously intrested to implement the same on political bias perhaps . The govt of Bihar issued a notification No.456 dated 17/07/2007 in this regard without proper and propertionate representation of the minorities .

According to the Govt's notification No 456 dt.17/07/2007 only the govt.officials of the concerning department are included in such committees since last 5 years .

Hence virtually there is no progress at all in this regard.

I therefor request your kind honour to look after the same as it will change the face and status of the minority people at large economically, educationaly and moraly.

Thank,s

Your's Faithfully

(Haji) Zafeer Ahmad

Member , Finance, Audit and Yojana Committee

Zila Parishad, Katihar (Bihar)

E-Mail-azafeer85@yahoo.in

Address- Emarat Al-aziz,Flate no.214

AT-Chitkohara Gardanibagh

PO-Anisabad , Patna -800002

Mob No-09431640851”

ⁱ Arunachal Pradesh, Assam, Bihar, Delhi, Jammu & Kashmir, Maharashtra, Manipur, Mizoram, Meghalaya, Uttar Pradesh, West Bengal, Orissa, Uttarakhand, Haryana, Kerala, Karnataka, Sikkim, Andaman and Nicobar Islands, Madhya Pradesh and Jharkhand

ⁱⁱ UPA's Promises and Priorities: Is there a Mismatch? Response to Union Budget 2011-12'. Centre for Budget and Governance Accountability (CBGA). 2011

ⁱⁱⁱ Promises to Keep -- Investigating Government's Response to Sachar Committee Recommendations'. Centre for Equity Studies, New Delhi. 2011

^{iv} <http://news.outlookindia.com/items.aspx>

^v NCM website <http://ncm.nic.in/Tour-Reports.html>

^{vi} Section 302 IPC

^{vii} Naveen Surabaneni , “*Tectonic Shift in the Muslim Vote*” Hard News
www.hardnewsmedia.com/2007/10/1539