

Access to Justice for the Marginalised

Justice of course does not imply merely the judicial system, starting with the police and its enquiries or investigations and ending with the Law courts. There is a slew of issues to be addressed, each a marker on the road to egalitarianism and the erasure of tribal or sectarian marginalization. One needs to look at all development parameters. Deprivation has its tentacles everywhere, whether we discuss poverty and malnourishment, lack of education, at least proper education, gender discrimination and of course caste and communal bias. I am not sure how many generations a family would take to come out of such a swamp.

EDUCATION

The National Commission for Minorities does its best, within its limited powers, to remove some of the impediments. The first step towards amelioration of any kind would be education where MOMA has come out with the extremely beneficial scheme of scholarships, namely, pre-matric, post matric, and merit-cum-means. During our field visits we tried and checked the number of scholarships that the minorities have availed of. Here too there is red tape involved. Zero balance bank accounts have to be opened. In Maharashtra scholarship deposits for students come only to Bank of Maharashtra. In monetary terms, the scholarships are meagre, i.e. Rs. 1000/- for pre-matric and Rs 5000/- for post matric. Even then I notice, for instance, in Pune in a school of Muslim girl students only, one student out of 160 managed to get a scholarship. (The minimum marks needed are 50% and income below 1 Lakh and 2 Lakhs. For the Merit-cum-means scholarship the income of parents has to be less than 5 Lakhs.)

Formerly a given amount of money used to be given to states. In the 12th Plan the amount will be demand-driven. A noticeable change is taking place. Minorities are keen to learn Hindi and I find many of them quite adept at it.

There are various complaints about Madrassa education. Parents are craving for their children to be educated in Hindi, English, Science and Computer science. Not all madrassas have the will or wherewithal to introduce these subjects and impart instruction properly. The standards need much to be desired. (Quote Pune).

Many aspirants are isolated and not even aware of scholarships and the other beneficial schemes brought out by the Government. MAULANA AZAD EDUCATION FUND.

15 POINT PROGRAMME

Implementation of the 15 Point Programme has its own problems. (The Plan itself) states that the poor Muslims could not avail of the opportunities in education, employment and economic activities. There are various Ministries looking after the implementation of the 15 Point Programme as also the Sachar Committee Report.

Criminal Justice: But let us get down to the nuts and bolts of justice and redressal systems at our disposal. Access to Justice for any Indian very often sounds like a chimera. Only recently we saw the picture of the District Magistrate of Gonda, Uttar Pradesh who broke down after the judgement sentencing her father's murderers to be hanged. The only snag was that the crime occurred in 1982 and the decision came 31 years later. Hence, the state of justice – police procedures, the immense delays in the Courts fuelled by adjournments galore and endless arguments from lawyers almost amounting to filibustering. To now imagine a tribal or a poor member of a minority, or a neo-convert to Buddhism getting speedy justice would be asking for a bit much.

In a nutshell the problems faced by the disadvantaged are:

1. Non registration or delayed registration of a criminal case.
2. Stringent legal sections are underplayed. A section like 307 IPC (Attempt to murder) will be softened to Section 324/325 IPC, Grievous Hurt.
3. Legal aid is lacking. If nothing else Para-legal aid needs to be arranged in poor localities (just as Para-medics would do a good job there.)
4. Most victims never get compensation.

We Indians are amongst the most litigant people in the world. Courts are packed with cases. The procedures and conduct are soporific. (Farrukhabad example—I was called for evidence in an important murder case, exactly six years after it had occurred. Six months later I was called again because the Judge wanted to know if any political pressure had been applied to me. I was not under any pressure.) But I don't think there's a terrible bias against minorities in the courts. This one encounters when we get to the police. The first problem would be the registration of an FIR. There will be dilly dallying and shilly shallying. (Your daughter is missing? Look around, ask your relatives or her friends. You'll find her. Sure she hasn't run away with a lover? Sorry—don't get wild Sir, no offence meant.) So that's the first hurdle.

Political pressure on keeping crime down is so serious in certain States, like U.P. that crime is just not registered. SP's and DIG's were suspended because there was a statistical rise in crime in their districts or range. If the hoodlums are politically connected, the police drags its feet during investigation. The hoodlum has money—what kind of a hood would he be if he didn't have it? He'd give hoodlums a bad name! Money gets siphoned off to the police.

The real bias comes out in communal / sectarian riots and conflict. The constabulary is especially prone to be affected by the kind of propaganda that is being mouthed by certain Sections. If you are a Muslim, you are a fanatic, you have your loyalty across the border, you have more than one wife and are producing children by the dozen and for all you know you could be a terrorist. Such prejudices then become a part of a policeman's psyche. Bomb blasts take place in Mumbai and the very day three police teams leave from Lucknow for Azamgarh! How do you explain this?

A feeling exists among Muslims that there is some discrepancy in the amount of compensation given to Muslims as against Hindus.

In states where a sort of an anti-conversion law has been promulgated, things become more difficult. An anti-Christian bias comes into play. Missionaries, Jehovah's Witnesses get followed and heckled by the police. Sometimes they are hit with the law-book. In Bhopal, a police circular was issued to profile Christians their numbers, churches under construction, criminals amongst Christians. Clearly this was either due to political prodding, or because the Officer wanted to please his political overlords. Some honourable police officers have dubbed it as 'anticipatory sycophancy'. Because of anti-conversion laws promulgated in various States, the police have set about taking on the role of moral religious police.

Apart from the NHRC, most of the Commissions are firstly not constitutional and secondly not armed with any legal powers except summoning people and order hearings. Within these limitations, I would like to tell you how the NCM goes about it.

REDRESSAL

Firstly, as regards bias in Police, we have with the aid of National Police Academy and the BPR&D formed a police module for sensitization towards the minorities of Officers from the rank of Sub-Inspector to Dy.SP. We hope to shortly put into use this training module in all the States in Northern India, to start with.

The National Commission holds hearings in cases where complaints are of an intense and serious nature or where the injustice to the victim seems self-evident. NCM passes orders and gives directions. Normally these are carried out by the agencies. For instance, if there is a grave injustice to someone in a Nationalised Bank (in terms of promotion etc.) directions are given and these are normally complied with but if any agency refuses to comply, we have no powers to enforce our decision.

It needs to be said that there is a considerable feeling among Muslims that they are worse off than the Scheduled Castes and Tribes. Statistically they are badly off. The Sachar Committee Report gives damaging figures: 3.4 Muslims are graduates, 1% in MBA and 1.7% in PG courses. In the Services Muslim representation comes to 2.4 % in IAS, 1.9 % in IFS and 2.3 % in IPS. Only 1% of Muslim farmers own a hand pump for irrigation. All this needs to be taken account of. Everything can't be left to government. The community needs to put in more effort. For instance education in madrassas can be improved through the collective will of the community.

Minority representation in the Police is minimal. We need to think of empowerment. Art. 243 (D) (brought in through the 73rd Constitutional Amendment in 1993 provides for SC/ST representation in every panchayat in proportion to their population in the area. There are no such provisions for religious minorities.

In the 12th Plan, beneficial schemes are being moved away from Minority concentrated Districts to Minority concentrated blocks. This should go some way to improve matters. But much remains to be done.