

Chapter 3 India

Is the Idea Unraveling?

*Sajjad Hassan and Naaz Khair**

The Indian Constitution makes no attempt to define or comprehensively list the groups to be regarded as minorities. The term ‘minorities’ occurs in only two articles (29, 30), which explicitly mention minorities based on language, religion and culture. ‘Backward’ castes (Scheduled Castes and Tribes) are not minorities within the meaning of Article 30, although they are included in the non-discrimination provisions of Article 29. The focus of our report to this chapter is religious minorities, who together make up over 19 per cent of the country’s population. According to the official National Commission for Minorities - presumably using the numerical minority yardstick – these are Muslims, Christians, Sikhs, Buddhists and Parsis, with Jains being added to the group recently. Communities such as those of Jews have not been official designated as such, showing a significant anomaly in the system of official categorization.¹ There are also many inter-sectionalities so that not only are some religious minorities also linguistic minorities, but also ethnic and those making up ‘indigenous peoples’, and Dalits. Women and girls among the minorities bear a large burden of the disadvantages experienced by minorities as a whole (*see Table 1*).

This chapter reports on the conditions of minorities by individual rights as defined by the United Nations. In Section 2 we catalogue legal rights for minorities as enshrined in the Constitution. Section 3 examines the provision of life and security while Section 4 deals with socioeconomic rights.

* Support provided by Arnab Roy, Nazia Khan and Sneha Chandna

1. Tribes have been denied their specific religious identity – animist, among others - since the 1951 Census by enrolling them as Hindus (if they had not converted to Christianity or Islam).

Section 5 examines effective participation and Section 6 discusses identity and culture. The attempt is to build a baseline on precepts and practices of minority rights in India. Section 7 provides a snapshot of the on-going debates, which have somewhat accelerated in recent years, seeking to refashion majority-minority relations in the country; it also discusses secularism with implications for minority rights. The chapter concludes with a set of recommendations for action.

The Constitutional framework

Minority rights (and provisions impinging on pluralism) in the Indian Constitution which are laid out in considerable detail can be grouped into two broad categories:

- i. Common domain: rights that all citizens of India, including religious minorities, are guaranteed.

Some of these are 'Fundamental Rights' (in Part III of the Constitution):

- Equality before law (Article 14)
- Prohibition of discrimination on grounds of religion, ethnicity or gender (Article 15, 1/2)
- Right of citizens to equal opportunities in employment and appointment to public offices; and prohibition of discrimination (Article 16[1], [2])
- Freedom of conscience and to practice and propagate it (Article 25[1])
- Right of religious denominations to establish institutions for religious and charitable purposes (Article 26)
- Prohibition to pay any taxes for promotion of any religion (Article 27)
- Freedom as to attendance at religious instruction or worship in educational institutions wholly maintained, recognized or aided by state (Article 28)

Others figure as Directive Principles (Part IV) providing a vision for change:

- Eliminate inequalities (Article 38[2])

Table 1. Religious minorities in India

	Muslims	Christians	Sikhs	Parsis	Buddhists	Jains
Population	172,245,158	27,819,588	20,833,116	-	8,442,972	4,451,753
As percentage of total population	14.23	2.30	1.72	n/a	0.70	0.37

Source: Census (2011).

- Promote educational and economic interests of weaker sections (Article 46)

There are also Fundamental Duties (in Part IVA, Article 51[A]), providing dos and don'ts for citizens:

- duty to promote harmony
- duty to value diversity

ii. Separate domain: special rights that minorities (religious and linguistic) enjoy:

Some are Fundamental Rights:

- Right of any minority group to 'conserve' its 'distinct language, script or culture' (Article 29[1])
- Restriction on denial of admission to state maintained/aided educational institutions, 'on religion, race, caste, language' (Article 29[2])
- Right of all religious/linguistic minorities to establish and administer educational institutions of their choice (Article 30[1])
- Freedom of minority-managed educational institutions from discrimination in receiving aid from the state (Article 30[2])

There are also some special provisions:

- Special provision relating to the language spoken by a section of the population of any state (Article 347)
- Provision for facilities for instruction in mother tongue at the primary stage (Article 350A)
- Provision for a special officer for linguistic minorities and his duties (Article 350B)

This is clearly an impressive and elaborate regime of minority rights, protection and promotion. In this chapter we examine how these laws measure up on the touchstone of minority rights and how the laws themselves have held up in practice.

Life and security

Constitutional provisions and their implementation:

The Constitution of India guarantees life and liberty to all citizens (Article 21) and ensures equality before the law and equal protection by the law (Article 14). There are also the Indian Penal Code (1860) and the Criminal Procedure Code (1973), among others, which guarantee life and security and the rule of law for all citizens – for religious minorities as they do for other citizens. Yet data on violations of the right to life demonstrate that minority communities face particular challenges. This section catalogues the ways in which rights of religious minorities are denied through both the omissions (inability to provide security and guarantee of life) as well as commissions (state itself taking life and liberty away) of the state. It also examines, albeit in a summary fashion, how the state, the principal duty bearer, seeks to protect (or deny) right to life and legal justice including any reforms in provision of security and freedoms, including for minorities and how successful those attempts have been.

Status of ‘right to life’ for minorities

A key challenge in reporting on violence against minorities is absence of official data on violence, disaggregated by religious groups. The National Crimes Records Bureau (NCRB), the principal official source of data on crimes and violence in the country, and whose annual reports provide a large amount of useful data, does not report those on data disaggregated by religious groups (except for one particular category - prison population). Some of NCRB’s data is also not very useful for our enterprise of capturing crimes and violence against minorities. For example, the scope of NCRB’s communal violence dataset is limited – reporting only incidents of clashes and deaths and, not other violations, such as hate speeches. In the absence of much official data useful for our purpose, we have had to cast our net wide, to garner and collate data to be able to report denials of right to life and violence specifically against minority groups in the country. International human rights networks, principally Human Rights Watch and Amnesty International produce regular reports on human rights violations, many against minority communities. Other India and South Asia

based human rights agencies such as the Asian Centre for Human Rights too report violations using a combination of official and non-official data sources and studies. There are also media reports and those by NGOs and grassroots community networks working on minority rights/human rights. These sources are variously used.

Omissions by the state

According to NCRB (2015) there were 1,227 communal incidents in the country in 2014. According to the same report, in 2013, there were 823 communal incidents involving the killing of 133 persons and injury of 2269 persons. Communal here means concerning clashes between religious groups or individuals. An overwhelming number of victims of the violence and more broadly the insecurity were religious minorities – Muslims and Christians and also Sikhs. The situation has taken a turn for the worse since the current Bharatiya Janata Party (BJP) government came to power in May 2014. A recent civil society report on violence against minorities noted:

The results are visible (in) the *saffronisation*² of governance at the Centre to the implementation of the Sangh's³ agenda of coercion and isolation of religious minority groups, to infiltration of administrative structures, police and education. The incitement to violence and coercion is one facet of it (Dayal and Hashmi, 2015: 7).

Incidents of hate speeches have been common. Dayal and Hashmi (2015: 8) note:

A central government Minister, Sadhvi Niranjana Jyoti describes those who do not worship Ram (the Hindu god) as '*haramzade*' or bastards. A Shiv Sena MP force-feeds a Muslim canteen functionary during his roza fast. Another, Sanjay Raut, calls for the disenfranchisement of Muslims.

Hate speeches such as these have created a fertile ground for violence against religious minorities. Based on media-based tracking the report also notes that, in the one year since the BJP government came to power in May 2014, there have been at least 43 deaths in over 600 cases of violence,

-
2. Meaning greater hold of hardline Hindu ideology and institutions. Saffron is the colour traditionally associated with Hinduism.
 3. Short for Rashtriya Swayamsevak Sangh (Nationalist Volunteer Corps) – RSS, the umbrella organization for hardline Hindu organizations.

194 targeting Christians and the rest Muslims (Dayal and Hashmi, 2015: 8). The US International Religious Freedom report (US State Department, 2014: 1), noted, ‘the local NGO, Act Now for Harmony and Democracy reported more than 800 religiously- motivated attacks from May through to the end of the year.’ These figures do not include the 108 killed in Assam in attacks on Muslims by armed tribal political groups in early 2015. Given that official records are not easily available and the police does not register many crimes, or victims are often coerced into reaching a compromise with the perpetrators, these figures are likely to be much higher. Many of the incidents of violence were directed against Muslim individuals and their places of worship. Uttar Pradesh, Maharashtra, Gujarat and Assam are among the states where Muslims were targeted (Dayal and Hashmi, 2015: 8).

Christians too have suffered. Desecration and destruction of churches, assault on pastors, illegal police detention of church workers and denial of constitutional rights of freedom of faith, aggravated coercion and terror in campaigns of *ghar wapsi* and love jihad.⁴ In Chhattisgarh, villages passed orders banning the entry of priests of faiths other than Hinduism (Dayal and Hashmi, 2015: 8).

According to a report by the Evangelical Foundation of India (EFI), violence against Christians picked up in independent India in the early 1990s reaching its peak in 2008-09 with more than 1,000 incidents of violence and hate crimes being reported. Chhattisgarh, Madhya Pradesh, Uttar Pradesh and Telengana had the highest incidents of anti-Christian violence. An analysis of the violence reveals that 54 per cent were threats, intimidation and coercion often with the police looking on. Physical violence constituted a quarter (24 per cent) and violence against Christian women was 11 per cent (Evangelical Fellowship of India and Alliance Defending Freedom India, 2015:7).

Sometimes specific laws facilitate violence against minorities, especially by non-state vigilante groups acting in connivance with a biased police and law enforcement.

All states, barring a few (West Bengal, Kerala and select North Eastern states) have laws banning cow slaughter and its transportation (for

4. *Ghar wapsi* (literally ‘homecoming’), name given to forced conversion of non-Hindus to Hinduism by Hindu hard line groups. Love jihad – claims by Hindu groups to Muslim boys luring Hindu girls as jihad by another means.

example, Uttar Pradesh has the Prevention of Cow Slaughter Act 1955 and Bihar the Preservation and Improvement of Animals Act 1955) with varying attribution of crime and associated penalties (the Uttar Pradesh law completely bans slaughter of cows, bullock and ox, and provides for a 7-year jail term while the Bihar law permits killing of bulls and bullocks older than 15 years and provides for a maximum of a 6-month jail term). These laws have been enforced in varying degrees. But the presence of the laws provides a ready tool for a communalized police force to target mostly poor Muslim transporter workers, resulting in arrests and incarceration of many for long periods of time without even the prospect of bail. Recently, with Hindu groups gaining ascendancy and law enforcement increasingly coming under their influence, vigilante gau raksha samitis (cow protection committees) have sprung up all over the country which do not shy away from using physical violence, including public lynching of mostly poor Muslim cattle transport workers, in acts of cow protection (see, for example, Firstpost, 2016; India Today, 2016).

Similarly, several states (Odisha, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh and Rajasthan) have passed freedom of religion legislations aimed essentially at preventing people from converting to Christianity and Islam (conversion to Hinduism, or to other 'indigenous' faiths is not considered conversion by Indian law). And states that do not have anti-conversion laws resort to provisions in the Indian Penal Code (IPC) to target minorities. Section 153, prohibiting 'promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, and doing acts prejudicial to maintenance of harmony' and Section 295A, prohibiting 'deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs', are used often by law enforcement to target missionaries and religious groups engaged in conversions. These together also provide the backdrop (and rationalization) for much of the violence against Christian missionaries by vigilante Hindu groups in tribal areas in the country (see Osuri, 2013a for a historical analysis).

Mass violence

A specific form of violence against minorities in India is what is described as 'communal riots', that in reality is mass violence against minorities, some bordering on pogrom with violent elements of the majority community targeting minority groups often with police support (or tacit connivance). India has had long history of these (see *Table 2*), the most recent major incident being in Muzaffarnagar in Uttar Pradesh in September 2013

(52 persons killed) and in Assam in May 2014 when on a single day 46 persons, 28 of them young children, were murdered in Baksa district.

‘Communal riots’ result in large-scale deaths, grievous injuries and widespread sexual violence; loss of property and significant displacement of populations; and have a long-term impact on survivors’ livelihoods and access to education and other services. Muzaffarnagar is a good example of losses in recent years.

In September 2013, as parliamentary elections were approaching, large-scale communal violence engulfed Muzaffarnagar and Shamli districts in western Uttar Pradesh. A BBC report described the violence as ‘the worst in India in a decade.’ By the time the violence had abated later that month, 52 persons had died, over 60 had been grievously injured and scores of houses had been destroyed in fires across 14 villages in the two districts. This was the official count—many instances of death, injury, rape and destruction of property remain uncounted to this day. The violence overwhelmingly targeted Muslims, especially from poorer backgrounds. Additionally, the violence affected another 74 villages in the region as Muslim families there, especially where they were in a minority, fled fearing violence resulting in one of the largest violence-induced displacements in India in recent years. Estimates vary, but a figure of 50,000 at its peak, has been widely accepted (Hassan, 2016:189).

Post-violence justice and rehabilitation too seem beyond a victim’s reach. A recent report examining large episodes of mass communal violence (in Delhi, 1984; Bhagalpur, 1989; and Gujarat, 2002), reveals how survivors were systematically denied justice. The failures began from stage one, in which a survivor came in contact with the state through the flawed writings of first information reports (FIRs) in cases in which they were recorded to poor investigation resulting in a large number of cases being summarily closed with no evidence of the complainant being given a chance to represent against the closure as required by law. These were followed by a poor show on arrests of the accused and poorer outcomes on prosecution. This also included an acute weakness of efforts by the prosecution to contest bail applications. Rates of acquittal were significantly high, suggesting either a passive trial court or one that was complicit in subverting justice. Chopra and Jha (2014: 334) contend, ‘...the scale of these failures, (and) the fact that they are repeated across different episodes demonstrates that these failures are systematic rather than occasional aberrations.’ According to Hassan (2015: 509), accountability of public officials ‘comes forth as a

Table 2. Major incidents of communal violence in post-independence India

Year	Location	Deaths	Prime victim
1964	Rourkela (Odisha), Jamshedpur, Kolkata	2,000	Muslim
1967	Hatia, Bihar	180	Muslim
1969	Ahmadabad, Gujarat	512	Muslim
1979	Jamshedpur, Bihar	120	Muslim
1980	Moradabad, Uttar Pradesh	2000	Muslim
1983	Nellie, Assam	1800	Muslim
1984	Bhiwandi, Maharashtra	146	Muslim
1984	Delhi	2733	Sikh
1985	Ahmedabad, Gujarat	300	Muslim
1987	Hashimpura, Meerut, Uttar Pradesh	42	Muslim
1989-90	Bhagalpur, Bihar	896	Muslim
1990	Various, incl. Gujarat, Delhi, Patna, Hyderabad	1000	Muslim
1992-93	Surat (Gujarat), Bhopal, Mumbai	1300	Muslim
2002	Various places in Gujarat	2000	Muslim
2008	Kandamahal, Odisha	39	Christian

Source: Tabulated by the author from Rajeshwari (2004).

particularly weak point. Gaps in the law and procedural barriers to prosecution make it easier for complicit officials and politicians to escape.’

Commissions by the state

It is not only in acts of omission that the state fails its citizens from minority communities, the state has also undermined citizens’ fundamental rights of life and liberty by its actions. According to a recent human rights report (Asian Centre for Human Rights, 2015:3), ‘the right to life is perhaps the most violated right in India.’ The report also notes how in the last 10 years, from 2004 to 2014 according to official records, the right to life of at least 130,407 persons (or 1,086 persons per month) was violated either by state agencies or was caused by the failure of state agencies. A large percentage of these were victims of custodial and ‘encounter deaths’, deaths in police firing, deaths of civilians in violence affected regions and deaths in communal violence. An overwhelming majority of these victims belonged to minority communities – mostly Muslims and Christians - besides Dalits and tribal groups.

Indian security forces have long applied unlawful methods against members of groups deemed as security threats, especially in ‘conflict zones’. These include parties to conflict in North East India, the state of Jammu and Kashmir and Maoist (Naxalite) rebels in much of the central and eastern parts of the country. In Kashmir’s case (Muslim majority), according to a state government report, between 1990 and 2011, 43,000 persons were killed – of these 21,232 were said to be ‘militants’ and 13,226 ‘civilians’. These represent only a part of the violations in the state. Activists estimate that up to half of all human rights violations by security force personnel in the state may have gone unreported in the 1990s and early 2000s. Torture, deaths in custody, extra judicial executions and enforced disappearances have been common (Amnesty International, 2015: 8). They continue to be so. Recent civil society reports throw some fresh light on the happenings in Kashmir. Research into unknown, unmarked and mass graves documented over 8,000 enforced and involuntary disappearances and more than 70,000 deaths, including through extra judicial or ‘fake encounter’ executions,⁵ and custodial brutality between 1989 and 2009 (Chatterji et al., 2009:10). Another recent report on forced ‘disappearances’ in Kashmir documents the extra judicial killings of 1,080 persons and enforced disappearances of 172 persons and numerous cases of torture and sexual violence (IPTK and APDP, 2015).

The North Eastern part suffers similar violations of right to life. Human Rights Alert, an Imphal-based human rights group, documented 17 cases in which security forces allegedly extra-judicially executed civilians in 2006; in 2007, 12 cases were documented by the group; and as of July 2008, at least 23 such cases had been listed (Human Rights Watch, 2008:6). Overall, state action in conflict zones needs to be seen in the context of the brutal counter-insurgency campaigns fought by Indian forces in the region that have left a long trail of human rights violations– minorities, Christians particularly, suffering much although there were non-Christian victims too – particularly Manipur’s ethnic minorities.⁶ It could be claimed that atrocities are not designed to target minorities. However, the fact that minority concentrated regions in the country – Kashmir, the North Eastern states and Punjab, are

-
5. ‘Encounter killing’: Killing of civilians alleged to be involved in armed confrontation with state forces. ‘Fake encounter killing’: Extra-judicial killing of civilians, often while they are in the custody of state forces, recorded by officials as resulting from an armed confrontation with state forces instigated by the recently deceased, see Human Rights Watch (2009).
 6. One of the first detailed accounts of this is provided by Luithui and Haksar (1984), documenting human rights violations in Nagaland and Naga areas of Manipur through the 1950s and 1960s that peaked in the 1980s.

or have all been sites of large-scale and systematic violation of the right to life speaks volumes for the failure of the Indian state to provide security to its minorities.

Like those suffering mass violence, the victims of human rights abuses in conflict zones have been unable to secure justice. Amnesty International (2013: 8) reports: 'there is a pattern of impunity, including unlawful government orders to the police not to register complaints of human rights violations against the security forces.' The Asian Centre for Human Rights report echoes this claim, noting that the root causes of violations of right to life in India include impunity at all levels and across the spectrum and the dispensability of victims because of their caste, creed, ethnic origin, economic status, gender or simply geographical location, that is, residing in areas notified as 'disturbed areas' under the Armed Forces Special Powers Act (AFSPA) of 1958 (Asian Centre for Human Rights, 2015: 5).

The Armed Forces (Special Powers) Act 1958 and the Armed Forces (J&K) Special Powers Act 1990 have been in force since 1958 in parts of North East India and since 1990 in Jammu and Kashmir. The Amnesty report notes, 'The laws provide sweeping powers to soldiers, including the power to shoot to kill in certain situations and to arrest people without warrants. They also provide virtual immunity from prosecution by requiring prior permission from the central government before security personnel can be prosecuted. This permission is almost never given,' going on to conclude that the law has facilitated grave human rights violations, including extra judicial executions, enforced disappearances, rape and torture and other ill treatment. (Amnesty International 2013:1). Attempts to challenge AFSPA by human rights activists, UN bodies, as well as by government set up committees (Justice Verma Committee, notably) have been met with weak responses from authorities, and little evident commitment to tackling impunity. And in a landmark judgment recently, the Supreme Court ruled that the protection provided to armed forces under AFSPA is not 'absolute', propping up hopes of civil rights activists in their fight for greater state accountability (*The Indian Express*, 2016).

'Conflict zones' are not the only sufferers. Over the past decades, and especially in the context of the 'war on terror', police and security forces have been armed with various emergency powers – mostly on preventive detention. Whilst they differ in details, most, like the one the recent Gujarat Control of Terrorism and Organized Crime Bill (GCTOC), sought to legislate, have provisions that undermine due process - detention without

charge for extended periods; making confessions to police admissible in courts of law; and immunity of police and security forces from prosecution. (SAHRDC, 2015: 12-14). Evidence is surfacing about the extensive abuse of anti-terror laws in targeting minorities, tribals, deprived sections as well as political activists.

Commenting on India's principal anti-terror law, the Unlawful Activities Prevention Act (UAPA), Manisha Sethi (2014: 7) notes that it provides 'a ready recipe for witch-hunting and targeting of people, groups, and communities, seen as inimical to "national interest", that is itself defined according to the political, ethnic or communal prejudices of the Executive.' Putting things in context, Human Rights Watch states that 'the security forces in India, the world's largest democracy, have time and again responded to horrific attacks (such as bomb blasts) by committing numerous, serious human rights violations in their quest to identify and prosecute suspected perpetrators. These abuses are both unlawful under Indian and international law and counterproductive in the fight against terrorism' (Human Rights Watch, 2011:3).

Indeed, the discourse on terrorism has, as Sethi (2014: 7) notes, allowed and justified the 'usual suspects', namely Muslim youth, to be detained, arrested and incarcerated on charges of terrorism. This has the most severe effect on victims as they suffer harrowing experiences for varying lengths of time: illegal detention and torture (physical and psychological), incarceration and trial. The losses are deeper. As a report by the Jamia Teachers' Solidarity Association (JTSA), a victim support group (2012: 8) notes, 'businesses were destroyed; family members were broken, having suffered the humiliation and trauma of being associated with "terrorists"; children had to abandon their studies and the normality of everyday life, while parents passed away in grief and despair.'

A good indicator of how the criminal justice system works for minorities is the representation of different religious groups in the prison population in the country.⁷ Muslims and Christians find disproportionate representation among detainees, under-trial prisoners and convicts (*see Table 3*).

State-level data shows that states like Tamil Nadu in particular have very high proportion of 'detenues' from minority groups and Gujarat, Tamil

7. The fact that data on this is available on an annual basis, disaggregated by states and religious groups is of course the other reason why this can be used as a good indicator.

Nadu and Uttar Pradesh have very high numbers of minority ‘under-trial’ prisoners (NCRB, 2014:106, 103). This reveals, among other things, the bias against these communities in the criminal justice system. The case of Maharashtra is telling (*see Table 4*).

Providing context to these figures is a recent study of prisoners in Maharashtra’s jails, where Muslims were very over-represented. Most victims were male; had poor education; and belonged to lower income groups. Only 31 per cent were convicts while the rest were all under-trials. Seventy-five per cent had been arrested for the first time; 52 per cent had had their bail applications rejected (most of them did not even know the reason for rejection); 25 per cent had no lawyers to fight for them; and 61 per cent had no contact with NGOs (Raghavan and Nair, 2011: iv-v).

A study of Naxalite under-trials in Jharkhand found a large number of fake cases under CLA Act, UAPA and that the anti-state sections of the Indian Penal Code (IPC) had been foisted upon the victims mostly Christian Adivasis, besides Dalits and other backward classes (Puthumattathil et al., 2015). The study ‘exposes the deliberate misuse of criminal justice procedures to repress alleged Naxalite under-trial detainees inside Jharkhand’s jails’ - many from Christian backgrounds. Torture in custody; inhibiting pre-trial and trial proceedings; serial foisting of cases and re-arrests; fake cases; prejudiced denial of bail; and under-trial detentions were common. The study also revealed a very high incidence of acquittals indicating gross misuse of the criminal justice system (Puthumattathil et al., 2015: 3-4).

The failures of reforms

In this section we examine the outlook for improvements. The key instrument of police reforms in India is the 2006 Supreme Court directive to central and state governments for making changes in the evocative words of a Commonwealth Human Rights Initiative (CHRI) report, so as to move them from being a ‘force’ to ‘service’ (Commonwealth Human Rights Initiative, 2012). The directives cover a range of reforms including (i) establishing state security commissions for policy and oversight of police functioning and to lessen undue interference; (ii) fixed tenure for director generals of police and other key security functionaries; (iii) setting up police establishment boards in states and the National Security Commission at the centre for managing personnel matters professionally; (iv) separation of investigation and law and order functions; and (v) setting up independent police complaints authorities at the state and district levels.

According to the CHRI (2012:30) report, state governments' compliance with the 2006 directives, including adopting the model police bill, 'is slow and rife with dilution.' At places, adoption of recommendations is slow, elsewhere while structures have been put in place the spirit of reforms has been defeated – a case in point is the independent police complaints authority (PCA), as a grievance redressal mechanism which was imagined to encourage greater public responsiveness. Whilst states have set up PCAs, in most cases they are hardly 'independent' with serving police officers made to head these bodies and with no mechanism for public representatives. Other efforts at reforms encouraging accountability and strengthening the rule of law including compliance with human rights provisions are also going slow. The rule of law is in danger of being further diluted as the government is stalling efforts for adopting the revised Prevention of Torture Bill, drafted by a Parliamentary Select Committee (2010) whilst the central government has pushed through stringent amendments to the UAPA Act 2012.

Finally, the world over a representative police/security force has been seen to minimize both poor treatment of minorities by police forces and also in enhancing trust in the police among the wider citizenry. It was for this reason that the Sachar Committee (looking into the socioeconomic conditions of Muslims) proposed efforts for greater recruitment of Muslims in police/security forces and posting more Muslim officers in areas with large Muslim populations (Government of India, 2006). This was also adopted as a policy decision of the government (under the 15 Point Programme) to make the police force more representative. But as reports show there are not enough officers to post in all Muslim majority areas and there is also poor recruitment of police personnel from minority backgrounds, particularly Muslims by state governments. Official data shows that Muslim representation in police forces actually decreased from 8.39 per cent in 2001 to 6.52 per cent in 2011 (*see Table 5*).

Whilst laws on equality and non-discrimination abound, what is missing are measures to counter discrimination/biased treatment against particular groups, especially when the perception of discrimination is widespread. This is a central weakness of Indian minority rights. There are also specific gaps such as the absence of a clear anti-torture legislation, something that the Indian state has managed to stonewall for long, despite a strong push by UN agencies and international as well as local civil society groups. Another weakness of the rule of law in India which affects minorities is the impunity that state actors enjoy in law and the complete absence of effective accountability mechanisms.

Table 3. Prison data, India (2014) (All figures in per cent)

	Hindu	Muslim	Christian	Other
Population (2011)	78.35	14.20	02.40	-
Detenues	62.71	20.32	15.60	1.35
Under-trials	69.73	21.05	03.90	05.30
Convicts	72.49	16.38	03.93	07.18

Source: Tabulated by the author from Prison Statistics India (NCRB 2015).

Detenue: Any person detained in prison on the orders of competent authority under the relevant preventive detention law.

Under-trial: Any person kept in prison (judicial custody) while the charges against him/her are being tried.

Convict: A prisoner undergoing a sentence.

Table 4. Prison data, Maharashtra (2014) (All figures in per cent)

	Hindu	Muslim	Others
Population (2011)	79.82	11.54	-
Detenues	43.75	34.34	21.87
Under-trials	60.29	26.39	13.38
Convicts	68.57	22.45	08.90

Source: Tabulated by the author from Prison Statistics India (NCRB 2015).

Detenue: Any person detained in prison on the orders of competent authority under the relevant preventive detention law.

Under-trial: Any person kept in prison (judicial custody) while the charges against him/her are being tried.

Convict: A prisoner undergoing a sentence.

Table 5. Police forces and group representation (All figures in per cent)

	2001	2011		
	Population share	Representation in police forces	Population share	Representation in police forces
SC	16.2	13.39	16.6	13.67
ST	8.2	8.05	8.6	10
Muslims	13.4	8.39	14.2	6.52
Others	62.2	70.14	61.37	69.78

Source: Tabulated by the author from NCRB reports (2001 to 2015).

Socioeconomic rights and non-discrimination

Constitutional provisions and programmes

The Constitution of India guarantees equality before law (Article 14); right to equal opportunity in employment and appointment to public office and prohibits discrimination, including on religious grounds (Article 15, 1/2, Article 16 [1], [2]). The Constitution also enjoins upon the state to eliminate inequalities (Article 38[2]).

Status of implementation of rights

While assessing how these rights have been provided, we will first look at outcomes for religious minorities in terms of key indicators of development and/or backwardness: poverty, employment/unemployment, access to land and assets, nutrition/health and education among others. This will help us understand how equality works for minorities at the impact level. We will then try to see how the Indian government provides for minorities – the programmes and schemes put in place to close the gap – examining how they work, and what space there is for better impact.

Poverty

Poverty indices in different religious groups (what percentage of the population of the group lives below the official poverty line) show variations for rural and urban areas. Poverty lines for the two are different.⁸ *Table 6* shows that the incidence of poverty in rural areas was the highest amongst Buddhists; it was also high among Zoroastrians/Parsis and others including Muslims. In urban areas, it was the highest among Muslims by a wide margin as compared to the next group of Buddhists. Overall, Hindus, the dominant group in the country, do much better than the minorities – at least some of them – on poverty incidences.

Another way to look at the poverty trend is to see the share of religion in the overall population of the poor (*see Table 7*). All minority groups did poorly on this count, with a higher share among the poor than their population would warrant. However, the figure that stands out is the very high and disproportionate share of Muslims among the poor in urban areas. This is a running theme in our study of poverty trends in the country.

8. Urban poverty line= Rs 47 per day. Rural poverty line = Rs 32 a day.

Table 6. Poverty incidences across religious communities (based on NSSO Consumption Expenditure (2004-05))

Religious group	Rural	Urban
Buddhists	40.59	28.62
Christians	16.21	12.47
Hindus	28.90	23.35
Jains	2.59	2.57
Muslims	29.26	41.38
Others	36.02	22.91
Sikhs	5.00	6.08
Zoroastrians	35.42	10.74
Total	28.29	25.62

Source: Thorat (2013:16).

Table 7. Share of religious poor (in all-India poor)

Religious Communities	Rural		Urban	
	Population (2001 Census)	Poor (NSSO, 2004-05)	Population (2001 Census)	Poor (NSSO, 2004-05)
Buddhists	0.77	0.89	0.66	1.07
Christians	1.14	2.81	2.14	2.86
Hindus	85.52	79.99	82.33	75.60
Jains	0.01	1.10	0.14	1.12
Muslims	11.78	12.93	11.96	17.26
Others	0.43	0.09	0.81	0.22
Sikhs	0.34	2.12	1.90	1.79
Zoroastrians	0.01	0.07	NA	NA

Source: Thorat (2013:16).

Other indicators of poverty show similar trends. Mean per capita consumption expenditure (MPCE), another measure of economic well-being, was low for Muslims and Buddhists. Buddhists had the lowest MPCE in rural areas at Rs 506.26 (against the national average of Rs 558.71) with the Muslims not far above; in urban areas, Muslims did significantly worse than other groups at Rs 776.50 (against the national average of Rs 1,052.36) (Thorat, 2013: 19). Much of the problem stems from poor access of minorities such as Muslims and Buddhists to productive livelihood

opportunities. The relative deprivation of Muslims and Buddhists was evident in their ownership of assets as well – the access index of asset ownership across social groups was the lowest for SCs, while across religious communities it was the lowest among Muslims in 2002–03. (Government of India, 2011: 6) (*see Table 8*).

The workforce participation rate (WPR) measures population from groups participating in the national workforce in different categories. Among the major religious groups, WPR (based on Employment/Unemployment Survey, NSSO 61st round, 2004-05), was the highest among Zoroastrians in urban areas and among Buddhists in rural areas. That for Hindus, Christians and Sikhs was comparable, ranging between 34 and 37 per cent in urban areas, but was lower for Muslims at close to 32 per cent in both urban and rural areas (Thorat, 2013: 24). As the Arjun Sengupta report on workers in the unorganized sector shows, most Muslims in the workforce were in the unorganized sector (Government of India, 2007a). Organized sector participation, again based on the NSSO 61st round survey (both in the public and private sectors) was the lowest for Muslims among all religious groups. According to Sachar Committee, Muslims represented only 4.9 per cent of all employees (in central and state governments) (Government of India, 2006: 165).

The picture that then emerges is of minority groups doing worse than the majority community and also vast differences within minority groups themselves, with Muslims and (neo) Buddhists (officially categorized mostly as SCs) worse off as compared to the others. The Sachar Committee tasked with examining deprivation among the country's Muslims found that Muslims in Uttar Pradesh, Bihar, Assam and West Bengal constituted the poorest sections of India's population along with SCs and STs. These were also states where most Muslims lived. Other reports like the India Human Development Report (India-HDR, 2011) show similar trends (Government of India, 2011:4). Significantly high urban poverty among Muslims was also reported by India-HDR, using NSS 2007-08 data at 23 per cent as compared to 13 per cent for Hindus as a whole.

Notably, it is Dalits who make up the bulk of the poor within each religious group. This applies as much to Hindus, Sikhs and Buddhists, as it does to Muslims and Christians. *Table 9* confirms that poverty trends for religious groups as a whole are also reflected in poverty trends for Dalits among them.

Table 8. Distribution of expenditure classes by social identity

Economic status	ST/SC	All OBCs (except Muslims)	All Muslims (except STs/SCs)	Others (without SCs/STs, OBCs, Muslims)
Extremely poor	32.4	20.3	27.4	8.5
Marginal and vulnerable	55.4	59.6	57.1	46.3
Poor and vulnerable (PV)	87.8	79.9	84.5	54.8
Middle and high income (MHI)	12.2	20.1	15.5	45.2
All (PV+MHI)	100	100	100	100
All (millions)	302	391	138	258

Source: Government of India (2007a:8); based on NSS 61st round (2004-05).

Table 9: Poverty levels of Dalits among religious groups

	Rural	Urban
Buddhists	45.9	28.9
Christians	30.1	32.3
Hindus	37.7	40.9
Muslims	39.6	46.8
Sikhs	7.6	24.8
All Dalits	36.8	39.8

Source: Deshpande (2008:28, 29), based on NSSO (2004-05).

And yet traditionally Dalit communities among Muslims and Christians – the poorest of the poor as data shows - are not categorized as SCs. The law barring this is contained in Article 341 (3) of the Constitution that bars non-Hindus (interpreted in Indian jurisprudence as those following ‘non-indigenous’ faiths – Islam, Christianity, Judaism) - from being conferred Scheduled Caste status, thus depriving them of a range of affirmative action policies and priority coverage under anti-poverty schemes. This failure of the state provides one of the clearest cases of discrimination in law against sections of religious minorities.

Health and nutrition

We now look at the health and nutritional status of marginalized sections, particularly children and women, across religious groups. When it comes to children’s health we take two measures – nutritional status and level of immunization. Pregnant women’s health uses the place of delivery as the

measure. Data confirms that while it is true that overall health indicators (outcome – IMR, U5MR, MMR) are improving, and over time these indicators for marginalized groups like SCs/STs and Muslims are converging with the national average (Government of India, 2011: 8), process indicators such as the immunization rate, institutional deliveries and contraception prevalence rates are less robust, especially when it comes to excluded groups including particular minorities. In input indicators (public investment in health, health facilities and human resources, sanitation, safe drinking water and the like), according to NHFS III data (2005-06) there are the most problems for Muslims and others like them. STs and Muslims had the highest total fertility rate (TFR), only one-third of Muslim and SC women had institutional deliveries, only around 50 per cent of Muslim, SC and ST women received three or more antenatal ANC (I) visits (Government of India, 2011: 10).

Table 10 provides a snapshot of child immunization status across religious groups. It is clear that access of Muslims to essential services that potentially impact health well-being was limited with poor rates particularly for BCG and DPT.

Similarly, the per cent distribution of live births by place of delivery and percentage delivered in a health facility (*see Table 11*) is a good measure of access (and awareness) among communities about health facilities and good health practices. Here too, the Muslims did badly, with only 33 per cent live births in a health facility as compared to 39 per cent for Hindus and much higher figures for other groups (NFHS III 2005-06 data).

Finally, malnutrition is an indicator of chronic hunger, which is critically linked to people's health status. As we know, India fares badly on this count. The incidence of children suffering from anaemia and stunting and female malnutrition were above the national average among Muslims, particularly in Uttar Pradesh and Bihar and other states with a high concentration of Muslims. And while female malnutrition nationally has been reducing over time, it is increasing for Muslims (data between 1998–99 and 2005–06). (Government of India 2011: 8). *Table 12* shows the status of child malnutrition across religious groups providing data on the percentage of children under-5 years, classified as malnourished according to two anthropometric indices of nutritional status: height-for-age and weight-for-age. Minority groups, particularly Muslims and Buddhists, do particularly poorly across the two measures.

Table 10. Child immunization across religions

Religious Groups	BCG	DPT			Polio1				Measles	All basic vaccinations	No vaccinations	Percentage with a vaccination card seen
		1	2	3	0	1	2	3				
Hindus	79.6	77.5	67.9	56.4	48.6	93.9	89.9	78.7	60.0	44.4	4.4	37.4
Muslims	69.7	66.9	58.3	47.8	45.0	90.3	84.5	76.6	49.6	36.3	7.3	36.4
Christians	82.1	81.6	76.3	65.1	52.9	90.0	87.3	77.6	68.0	56.3	9.4	44.0
Sikhs	90.4	88.6	86.2	76.9	65.5	91.0	89.1	81.1	80.2	67.3	6.6	46.0
Buddhists	98.5	94.1	75.6	58.0	81.3	95.2	87.3	74.1	96.0	50.9	0.7	39.1
Others	69.3	75.3	53.8	42.3	20.7	91.9	84.3	79.5	41.4	27.2	7.9	25.8

Source: Thorat (2013:39), based on NFHS III.

Education

Poverty and education have a well-established correlation. To find out the relative performance of religious groups on this count we take three measures – literacy rate, school attendance and education level. As is clear (see *Table 13*) there were wide variations across religious groups on these counts. On the one hand, Jains and Christians had the highest literacy rates, much higher than Hindus as a whole, while on the other, Sikhs, Buddhists and Muslims figured at the bottom.

The variances in school attendance were similar (*Table 14*) with just over 42 per cent Muslim boys and 37.52 per cent girls in the 6-14 years age group according to NSSO 2004-05 survey attending school. Jains and Christians led here too and were much better than the majority Hindus.

According to Census 2001, Muslims were the least literate among all religious communities. The NSSO 2007-08 survey, education round, further confirmed a high proportion of Muslims as illiterate. This proportion was at par with that of SCs/STs and higher than that for OBCs. Muslim women (47.3 per cent) were amongst the most illiterate sections of society, comparable to SC/ST (53.2) women. A substantial proportion of Muslims—18 per cent male and 15.4 per cent female - had attained only primary education. Meanwhile at higher, upper primary and above levels, the proportion of Muslim children was significantly lower than that among all other groups including SCs. Most seriously, the incidence of ‘out-of-school’ children (of all social groups) was the highest among Muslims (Fazal, 2013: 6).

The main concern with education among Muslims remains low retention rates leading to dropouts and poor transition as children progress through the school system. According to a government fact-finding report, using data from 2011-12 Muslim children constituted 16.6 per cent of the total national enrolment in Grade I, but this declined to 8.4 per cent at Grade VIII (Government of India, 2013:11), leading the report to conclude, ‘...transition to upper primary stage is one of the major bottlenecks in the education of Muslim children’ (Government of India 2013:14). *Table 15* confirms this. The other concern is around girls’ education, with only a minuscule proportion of Muslims girls having completed secondary and graduate education (Government of India, 2013: 5).

According to HDR (2011), the incidence of out-of-school children was associated with poverty. Financial constraints turned out to be the main

Table 11. Place of delivery

	Public sector	NGO	Private	Own home	Parents	Other	In a health facility
Hindus	18.4	0.5	20.3	50.9	9.3	0.4	39.1
Muslims	15.4	0.3	17.3	56.7	9.6	0.5	33.0
Christians	23.6	0.9	28.9	42.0	3.8	0.7	53.4
Sikhs	15.1	1.2	42.0	32.3	9.2	0.1	58.3
Buddhists	37.2	0.2	21.3	23.4	17.2	0.6	58.8
Jains	30.9	2.6	59.6	4.1	2.8	0	93.1

Source: Thorat (2013:33), based on NFHS III.

Table 12. Child nutrition levels across religions

Religious group	Height-for-age-status		Weight-for-age-status	
	Percentage below -3 SD Chronically malnourished	Percentage Below-2 SD1 Severely malnourished	Percentage below-3SD Chronically malnourished	Percentage below-2 SD1 Severely malnourished
Hindus	23.4	48.0	16.1	43.2
Muslims	26.2	50.3	15.6	41.8
Christians	17.9	39.0	8.7	29.7
Sikhs	13.4	29.8	7.8	22.0
Buddhists	23.2	56.1	14.7	39.2
Jains	5.9	31.2	6.6	24.0
Others	34.0	58.5	35.4	62.7

Source: Thorat, (2013: 41), based on NFHS III (2005-06).

Table 13. Literacy rates

Religious groups	Person	Male	Female
Hindus	54.92	64.22	44.92
Muslims	48.05	54.99	40.63
Christians	69.45	72.76	66.17
Sikhs	60.56	65.03	55.56
Buddhists	62.16	71.05	52.83
Jains	84.09	86.67	81.35
Others	38.57	49.78	27.27
All Religions	54.51	63.24	45.15

Source: Thorat, (2013:3-4), based on Census of India (2001).

barrier to continuation of education forcing children into child labour. This was higher among Muslims (3 per cent) as compared to the national average (2.4 per cent) in 2007-08. Involvement of Muslims in traditional occupations (weaving carpets and working with glass, locks and brassware, among others) which due to old technology attract child labour, has been a factor here. Overall, the literacy problem among Muslims is the worst in Uttar Pradesh, Bihar and West Bengal (Government of India, 2011: 229).

Providing for minorities: The limited policy space

Provisions for equality (Article 14, and Article 16 [1] [2]) and non-discrimination (Article 15[1] [2]) in the Constitution have failed to prevent the socio-economic marginalization of sections of minorities. As data demonstrates, rural Buddhists, urban Muslims and sections of Sikhs and Christians form a bulk of these marginalized groups. Besides provisions for equality, the Constitution also makes it the state's duty to eliminate inequalities (Article 38 [2]) and promote educational and economic interests of weaker sections (Article 46). More concretely, the law authorizes the state to make special provisions for the economic advancement of backward classes (Article 15 [4]) and to make reservations in appointments for backward sections (Article 16 [4]). These have been used to fruitful ends to support groups designated as Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Castes (OBCs) to overcome poverty and marginalization. Yet, successive governments as well as courts in India have, despite evidence, refused to extend these affirmative action provisions of the Constitution to religious minorities. As discussed earlier, Dalit Muslims and Christians from the SC category have been excluded thus depriving them of the extensive and elaborate regime of compensation. There is also discrimination in how the state treats different religions when it comes to addressing poverty and deprivation of some of its poorest citizens. Article 341 (3) of the Constitution bars non-Hindus from being counted among SCs, claiming that the caste system exists only among Hindus (and other 'indigenous' religions – Sikhism, Buddhism and Jainism– being officially counted as Hindus).

The Prime Minister's High Level Committee on Social, Economic and Educational Status of Muslim Communities in India, (otherwise known as the Sachar Committee) broke new ground in public discourse on deprivation of the Muslim community in the country. By collating and analysing considerable empirical evidence, perhaps for the first time in independent India and, using official data sources, the report shifted the public debate on the conditions of Muslims from one based on perceptions and

Table 14. School attendance (6-14 years)

Religious Communities	Males	Females
Jains	54.68	57.20
Christians	52.22	47.14
Buddhists	49.82	46.43
Sikhs	47.83	44.34
Hindus	46.76	39.74
Others	43.10	39.30
Muslims	42.27	37.52
Zoroastrians	41.55	34.31

Source: Thorat, (2013:7-8) based on NSSO, 61st round, 2004-05.

Table 15. School attendance (6-14 years)

	Illiterate	Literate without formal education	Literate but below primary	Primary	Middle	Secondary and above	Graduate & above
Hindus	26.66	36.75	18.91	9.23	4.81	0.52	3.12
Muslims	30.12	43.19	16.34	6.13	2.49	0.24	1.49
Christians	15.26	36.26	25.08	11.85	5.72	2.28	3.54
Sikhs	27.10	35.43	14.48	13.54	6.19	0.74	2.51
Jains	11.63	25.72	20.58	24.07	8.53	0.34	9.13
Buddhists	16.60	38.07	24.19	11.73	6.33	0.25	2.82
Zoroastrians	17.28	27.57	0	27.57	0	0	27.57

Source: Thorat, (2013:13), based on NSSO (2004-05).

rhetoric (that denied Muslim deprivation) to one that was evidence-based thus establishing Muslims as a legitimate subject of public policy (Government of India, 2006:2). The Sachar Committee report led the government to declare a package of measures for all religious minorities - not just Muslims – containing affirmative action policies; special development initiatives; enhanced access to credit and education opportunities; social inclusion measures; and efforts for better minority sensitization of government functionaries (Government of India, 2009).

An assessment of the working of schemes for minorities, four years after the policy announcement, revealed serious drawbacks (Centre for Equity Studies, 2011). These included poor design of schemes and their poor re-sourcing resulting in their being little more than symbolic gestures, if even

that; and a weak institutional environment that prevented robust implementation including weak and ad-hoc structures and processes and poor capacities of implementing agencies, combined with a pervasive inability on the part of frontline state actors to connect purposefully with minority communities (Centre for Equity Studies, 2011:40). The findings of the study include:

- i. Minorities made up 19 per cent of the country's population (Census 2001). Budgetary allocations for schemes meant specifically for the minorities was just above 5 per cent of the total plan allocation in FY 2010-11. The Ministry of Minority Affairs' outlay for FY 2010-11 was Rs 2,600 crore, a small sum given its status as a nodal ministry. Per capita plan allocation for minorities in 2010-11 was Rs 797 (against Rs 1,521 for STs and Rs 1,228 for SCs).
- ii. Government departments had not been able to spend even the limited funds for minorities. Utilizations under the multi-sectoral development programme (MSDP) was a serious concern. Poor spending was a result of poor design of programmes and weak institutional mechanisms.
- iii. Coverage of 'minority schemes' was narrow focusing mainly on basic services (local infrastructure and housing) and scholarship schemes. Provisions for creating livelihoods and boosting education attainments – both serious concerns for minorities – were only token in nature.
- iv. The flagship programme for minorities – The 15-Point Programme – sought to earmark a minimum 15 per cent of outlays and physical targets of select universal programmes for better reach. This had not worked. Although akin to a sub-plan for minorities, the 15-Point programme had very limited detailing and enforcement of systems for planning and reporting financial and physical performance on minorities' access to universal programmes on education (Sarva Siksha Abhiyan), health and nutrition (ICDS, NRHM) and urban services (JNNURM). And only a few central ministries had actually allocated the minimum 15 per cent of their outlays.
- v. The other 'minority' scheme, MSDP too had little budgetary provisions and a very blunt area-development mandate and approach to be of much help in lifting minorities out of poverty. Institutional weaknesses further dampened impact. These included poor capacities of implementing agencies; poor monitoring of projects; and absence of participatory planning and implementation.
- vi. The Ministry of Minority Affairs, the central agency charged with providing leadership to minority programmes, lacked the institutional

Profile of a vulnerable minority:

Caste among religious minorities in India

This profile discusses the issue of intersectionality of caste and religion. One of the important purposes of the profile is to break the common and clichéd stereotype of identifying caste as a category that exists in Hinduism. In contrast to this popular understanding, we bring stories of a minority caste (Dalit) within the ambit of religious minorities in India. It is interesting to note that the most excluded Dalit community as a category exists within the fold of four religious minorities – Muslims, Christians, Buddhists and Sikhs. Hence, it would be appropriate to take a historical detour to understand the historical origin of caste outside the purview of Hinduism.

Tracing the origin of caste system within the Muslim community Yoginder Sikand said:

Most Indian Muslims are descendants of ‘untouchable and ‘low’ caste converts, with only a small minority tracing their origins to Arab, Iranian and Central Asian settlers and invaders... Indian Muslim society is characterised by numerous caste-like features, consisting of several caste-like groups (jatis). Muslims who claim foreign descent claim a superior status for themselves as ashraf or ‘noble’. Descendants of indigenous converts are, on the other hand, commonly referred to contemptuously as ajlaf or ‘base’ or ‘lowly’. As among the Hindus, the various jatis among the ajlaf Muslims maintain a strong sense of jati identity (Countercurrents, 2013).

Sikand goes on to add that the wider Dalit identity, a result of the Dalit movement, ‘does not seek to deny individual jati identities. Rather, it takes them into account but seeks to subsume them within the wider collective Dalit identity, based on a common history of suffering as well as common racial origins as indigenous people. This seems to have been a crucial factor in the emergence of a specific ‘Dalit Muslim’ identity (<http://www.countercurrents.org/dalit-sikander200903.htm>).

... contd. ...

and political authority to ensure compliance by all state actors for minority focused objectives. Overall, it seems to have made little effort to push the minority development agenda with governments and agencies through capacity building and sensitization or in minority communities themselves through outreach. States and districts suffered similar, or worse, institutional weaknesses. Minority welfare departments and district offices had very poor capacity and very limited mandate and traction with other departments.

A recent analysis confirms this assessment. The first official evaluation of the working of programmes set up on the recommendation of the Sachar report (Post-Sachar Evaluation Committee, 2014, popularly called Kundu Committee) concluded that not a great deal had changed since the start of programme. The findings of the Kundu report include (Government of India, 2014a:152-153):

- i. Schemes under the PM's 15-Point programme and MSDP were area development schemes, with little targeted focus on minority communities. A good example is Jawaharlal Nehru Urban Renewal Mission (JN-NURM) where large investments, purportedly as part of the 15-Point Programme mostly on urban infrastructure had little resonance for minorities. Barring the odd exception, such as scholarship schemes, there was little attempt to specifically target minority communities through clear operational plans and beneficiary lists.
- ii. Connected to this is the problem of sound data. Except a very rapid baseline survey of the MCDs, 'there has not been any systematic assessment of the development deficits in MCDs and determination of the target under different schemes'. There seemed to be no clear plan and roadmap, with targets and allocations fluctuating year on year. And non-availability of disaggregated data by religious groups locally for several schemes constrained the assessment of the effectiveness of the schemes for different communities.
- iii. There was also lack of institutional mechanisms and implementation staff at the state, district and block levels. Further, whatsoever staff existed in many states, a large proportion lacked motivation. It was not surprising then that the impact of the programmes for minorities remained the least, leaving them disillusioned with government promises. Also, no effective evaluation of any programme was done and social audits had not been conducted. In fact political promises and rhetoric for minority development stood in contrast to the effective benefits to minorities from the schemes.

... Profile of a vulnerable minority continued

Commenting on the origin of the caste system in the everyday practices of the Muslim community, the National Commission for Minorities report, prepared by Satish Deshpande, noted:

Day-to-day relationships between different individuals in any local Muslim community are determined by their membership of the caste-analogue rather than by the broad categories of ashraf and ajlaf. In any local area or community the Muslim population is divided into a number of social groups which are analogous to castes among Hindus. These caste-analogues are ... characterised by endogamy, hereditary membership ... particular occupation and is usually associated with a more or less distinct ritual status in a hierarchical system (Deshpande, 2008: 14).

Compared to Muslims, there is much less ambiguity about caste practices among Indian Christians. Deshpande's study brings out the fact that a substantial portion (50 to 75 per cent) of the Christian community is made of former Hindu untouchable castes (Deshpande, 2008: 14-15). During colonial times Christianity held out several promises, especially to the then untouchable Hindu society. Education by the missionaries and a promise for social justice, hitherto unknown among the Hindu Dalits, must have played an important role in the mass conversions from Hinduism to Christianity (Barua, 2015: 95. Also see another interesting book on the same theme which makes the same point, Frykenberg, 2003).

However, it is not only the lower caste that converted to Christianity. Significant sections of the upper caste population, especially in the southern state of Kerala, too converted. Deshpande writes that the 'old Christians are known as Syrian Christians whereas Harijan converts are known as Putu Christians (Neo-Christians), Chermar Christians, Pulaya Christians etc.' (Deshpande, 2008:16)

Caste as a social and institutional category is also present in a significant way among the Buddhists community in India. Maharashtra is home to the largest population of Indian Buddhists. Under the political influence of Babasaheb Bhimrao Ambedkar, a larger section of the erstwhile Hindu Dalit population denounced their religious

... contd. ...

- iv. Plans and financial allocations were modest in relation to the deprivation of the minorities, especially Muslims, and for some of the schemes this meagre amount had not been fully utilized showing lack of zeal and coordination among officials and agencies.

Effective participation

The right to effective participation sees to it that minorities have a right to participate in decisions at national and local levels that affect their lives. There are various ways in which this outcome is sought to be actualized, including through effective representation of minorities in governing institutions and effective political participation. Effective political participation is a key ingredient in enabling minority voices to be heard.

Constitutional provisions

Constitutional provisions with regard to rights of all citizens to effective participation include:

- Part 15 of the Constitution, governing the right to vote and the right to contest elections.
- Article 14 and Article 15 (1) provide that these ‘political’ rights are available without discrimination to all citizens.
- Article 324 provides for an independent Election Commission.
- Article 16 provides equality of opportunity in matters of public employment.
- Article 19 (1) C gives to all citizens the right to form associations or unions.

Political representation of minorities

The key national governing institution is the Parliament. A look at the representation⁹ in the Lok Sabha (the lower and the directly elected House of Parliament) reveals some stark facts (*see Figure 1*).

Representation of minorities in the Lok Sabha is poor. The largest demographic minority in India, Muslims, comprised 14.2 cent of the

9. Defined as the difference between a minority group’s proportion in a country’s legislature and its proportion in that population. A negative score implies under-representation.

... Profile of a vulnerable minority continued ...

identity and converted to Buddhism to escape the most horrific level of oppression that was present during colonial times.¹ The tradition of Hindu Dalits converting to Buddhism continues even today. Thus, for instance, in 2006 more than 70 people from village Kumarriguda, 40 miles outside Hyderabad, gave up Hindu religion. D. Anjaneyulu, a local Dalit politician, who was apparently stopped by local Brahmins from raising the Indian flag because of his caste, commented that 'we want to be equal to upper castes. Being a Dalit in Hindu society means this is not possible. Being Buddhist means we will be separate but equal' (<http://www.theguardian.com/world/2006/oct/13/religion.india>).

The prevalence of caste in colonial times was widespread across the country. The North Western Province was no exception. The rejection of the caste system by Guru Nanak, the first the Sikh gurus, was categorical. The teachings of Sikh gurus and subsequently the Granth Sahib, the holy book of the Sikhs, appeared to have given the out-castes a welcome feeling of honour. Though the Hindu varna order was altered, it did not guarantee the end of caste distinctions (<http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=F31AD339E2272A88CAE6DCCBEF14007?-doi=10.1.1.614.4430&rep=rep1&type=pdf>).

Dalits who constitute as much as 29 per cent of the total population of contemporary Punjab, which comes close to the number of Jat Sikhs, is another major community heavily concentrated (over 80 per cent) in the villages. The Dalit category among Sikhs is made up of mazhabis or the scavenger caste of chuhras and ramdasis (also called ravidasis) or the caste of leather workers, the chamars (Fazal, 2015).

The SCs in Punjab are divided into different communities with their own distinct social identities and experiences of economic development. According to the official list Punjab has 37 SCs. However, a large majority of them can be clubbed into two or three clusters. The first cluster of mazhabi Sikhs and the balmikis/bhangis constitute 41.9 per cent (30.75 and 11.15 per cent respectively) of the total SC population in the state. The second cluster is made up of ad dharmis

... contd. ...

Figure 1. Representation of minorities in the 16th Lok Sabha 2014



Source: Livemint, 2016.

population (2011 Census) but they make up only 4.24 per cent of the current Lok Sabha (elected in 2014). That is a representation score of (-) 9.16 percentage points. Smaller minority groups find better representation. Sikhs have a representation score of 0.3 percentage points, while Christians, Buddhists and Jains each have a score of (-)1 percentage point or less. Given that there is no system to compensate minority groups for poor representation in elected bodies (such as through ‘proportional representation’ or through reserved seats, as is the case for SCs and STs), it would be fair to conclude that the current Lok Sabha does not truly reflect the social make-up of the country and does not allow for minority voices to be heard.

The Lok Sabha currently has only 23 Muslim Members of Parliament (MPs), all elected from seven states with concentrations of Muslims. However, Uttar Pradesh, the state with the highest Muslim population, sent no Muslim MP. It is equally remarkable that not a single MP of the 282 from the ruling Bharatiya Janata Party (BJP) in the current Lok Sabha, is a Muslim. A key issue of course was the fielding of candidates. Out of the 428 members that the BJP fielded in the elections, it gave tickets only to seven Muslims. In the circumstance, all lost. *Table 16* gives Muslim representatives by political parties in the current Lok Sabha.

Twenty-six other parties, including the ruling BJP (with 282 MPs in the House), have no representation of Muslims in the Lok Sabha.

Even in the 15th Lok Sabha (2009) it was the same case. National parties (Congress, BJP, CPI (M) and BSP) together sent 17 Muslim MPs, regional parties contributed eight MPs and so-called Muslim parties another four; there was also an independent member, taking the total to 30 Muslim MPs in a House of 545. Notably, it was regional parties, rather than the national ones, that fielded more Muslim candidates (293 and 116 respectively) (Jaffrelot et al., 2009). Clearly there are no incentives for

... Profile of a vulnerable minority continued ...

(15.74 per cent) and chamar/ravidasi/ramdasi Sikhs (25.85 per cent) who together constitute another 41.59 per cent. The remaining 33 caste groups constitute only 16.51 per cent of the total SC population in Punjab.

Statistical data and a few facts

We now try to understand the present day condition of the Dalits living outside the purview of Hinduism. Drawing on NSSO data, the Deshpande report estimated the number of Dalit Muslims and Dalit Christians across the country. There were only about 8 lakh Dalit Muslims (5 lakh in rural and 3 lakh in urban India). Dalit Christians were about 23.5 lakh (almost 15 lakh in rural India and a little less than 9 lakh in urban India). The same report suggests a population of 56.8 lakh Dalit Sikhs in the country. Out of a total estimated 71.3 lakh Dalit Buddhists, 29.7 lakh live in urban India, while 41.6 lakh live in rural areas (Deshpande, 2008: 25). Some of the findings of the report which gives details of the socioeconomic status of Dalits belonging to different religious minorities are mentioned here to give an idea about their plight/miserable conditions:

1. 'With respect to proportions of population in poverty or affluence, Dalit Muslims are unquestionably the worst off among all Dalits, in both the rural and specially the urban sector, being completely absent in the affluent group ... Dalit Christians may be said to moderately better off than other Dalits except Dalit Sikhs, who are even better off.'
2. 'The picture with respect to average levels of consumption measured by percentiles of MPCE confirms that, with the exception of rural Dalit Sikhs who are slightly better off all along the economic spectrum except at the very top, all other Dalits are basically the same in economic terms ... Also strongly emphasised is the serious poverty among urban Muslims.'
3. 'With respect to comparisons of educational levels, Dalit Muslims are the worst off in rural India in terms of illiteracy, but are closely matched by Hindu Dalits in both rural and urban India. Dalit Christians are slightly better off in rural, and significantly better

... contd. ...

Table 16. Muslim MPs (16th Lok Sabha)

Party	INC	TNC	PDP	Muslim-led parties*	CPI-M	NCP	LJP	RJD	AIADMK	Total
Total MPs	44	34	3	6	9	6	6	4	37	
Muslim MPs	4	4	3	5	2	2	1	1	1	23

Source: Tabulated from the Election Commission of India's website.

Note: *: AIDUF, IUML and AIMIM.

political parties to field minority candidates in elections as a means to greater minority representation and participation.

A look at some of the historical data, however, reveals that it is not only in recent times that Parliament has shown such skewed representation; instead this has always been the case. *Table 17* shows Muslim representation in the Lok Sabha since independence. Although the current Lok Sabha may be particularly unrepresentative, Muslim representation has always been sub-par.

State assemblies provide similar stories of poor representation of minorities, especially Muslims.

Drivers of poor political representation

The Sachar Committee report, looking into the socioeconomic backwardness of Muslims, cited two mechanisms at play when it comes to the dismal representation of minorities, particularly Muslims (Government of India, 2006: 25):

- Non-inclusion of Muslims in voter lists resulting in their not being able to vote.
- Notification of reserved constituencies: Muslim concentrated assembly constituencies being declared as 'reserved' constituencies where only SC candidates can contest elections, resulting in Muslims being unable to contest on those seats.

An analysis of the data relating to reserved constituencies for SC candidates in three states - Uttar Pradesh, Bihar and West Bengal- shows that constituencies declared reserved for SCs were by and large those where Muslims were in greater numbers, often more than 50 per cent of the

... Profile of a vulnerable minority continued

off in urban India. At the other end of the educational spectrum, there are no major differences across Dalits in rural India (except Buddhists, who seem to have comparatively high proportions with graduate or higher degrees)' (Deshpande, 2008: 63-64)

Let us go beyond the numbers to understand the experiences of Dalits from different religious minority groups to come up with anecdotal evidence to show their discrimination and suffering. For instance, although Christianity does not encourage discrimination Dalit Christians continue to be discriminated against and marginalized even by upper caste and non-Dalit members of the same religion. Writing about the relationship between Dalit and non-Dalit Christians in Kerala in the 1970s, the Deshpande report quoted a case study:

During the course of the field work, it was found that only Syrian Christians were referred to as 'Christians', and Pulaya Christians were referred to as 'Pulayas' by all, including the Pulaya Christians themselves. The Pulaya Christians addressed the Syrian Christians by honorific titles such as Tampuran (Lord), Panikke (Master), whereas Syrian Christians added the suffix 'Pulaya' while addressing a Pulaya Christian ... It was found that the Syrian and Pulaya members of the same Church conduct religious rituals separately in separate buildings (Deshpande, 2008: 16).

On another occasion, in Trichi (Tamil Nadu), a wall was built across the Catholic cemetery. Dalit Christians, converted from the formerly 'untouchable' Hindu caste, were allocated space for burial on one side of the wall while upper caste converts were buried on the other side. Fr Yesumariyan, a Jesuit, practising lawyer and a Dalit-Christian activist, says: 'In Tamil Nadu, over 70% of Catholics are Dalit converts. But only four out of 18 bishops are from the Dalit-Christian community' (<http://www.bbc.com/news/world-south-asia-11229170>).

While commenting on the nature and cause of discrimination of Dalit Christians by the non-Christian population (mostly the Hindu population), a separate report on the Christian community noted that the 'Christian Dalits are treated even worse than Hindu, Sikh or Buddhist Dalits. In the first place, in the eyes of the Indians,

... contd. ...

Table 17. Muslim MPs since the first Lok Sabha (1952)

Year	Number of Muslim MPs	per cent of the house
1952	11	2
1957	19	4
1962	20	4
1967	25	5
1971	28	6
1977	34	7
1980	49	10
1984	42	8
1989	27	6
1991	25	5
1996	29	6
1998	28	6
1999	31	6
2004	34	7
2009	30	6
2014	23	4.2

Source: Tabulated by the author from the Election Commission of India's website.

population and higher than the proportion of SCs, whereas many constituencies with large SC concentrations remained 'un-reserved'. Reserving Muslim concentrated constituencies is seen as discriminatory, reducing the chances for Muslims to stand and be elected to state assemblies and Parliament (Government of India, 2006:25, footnote 7). Further, since Dalit Muslims and Dalit Christians are officially not recognized as Scheduled Castes, Dalit Muslims cannot contest in the constituencies reserved for Scheduled Castes, thus denying them that right too.

Apart from these reasons, it is clearly poor incentives for political parties to field Muslim candidates that sustain poor Muslim representation in Parliament and state assemblies. The case of majoritarian parties such as the BJP is self-explanatory. But, as data shows, even so-called secular parties like the Indian National Congress (INC), Samajwadi Party (SP), Bahujan Samajwadi Party (BSP), Rashtriya Janata Dal (RJD) and Trinamool Congress (TNC) shy away from nominating Muslim candidates. So in the 16th Lok Sabha elections in 2014, while among BJP's 428 candidates, only seven were Muslim, Congress' case was not exemplary either. Of the 462

... Profile of a vulnerable minority continued ...

Christian Dalits made the “mistake” of embracing the Christian faith, in addition to their “crime” of being born in an untouchable caste. The consequence of this is that Christian Dalits are in fact twice discriminated: as Dalits and as Christians’ (<http://www.indianet.nl/pdf/christiandalits.pdf>).

Thus, even a change in religion for a majority of the untouchables might not have brought them good lives with honour. The stories of many Christian Dalits echo the same agony and marginalization. Caste hostilities and violence against Dalit Christians is a periodical phenomenon. In one instance, more than 100 Dalit Catholic families were forced to spend a night in the fields to hide from a rampaging mob of upper caste Catholics. The role of the administration and police was negative. Naveen Kumar, whose father was attacked in the riot, recalled that the upper caste Catholic people destroyed houses, attacked women and children. They did not even spare cattle and dogs (*The Hindustan Times*, 2015).

The condition of mazhabi Sikhs continues to be the worst. Even in their religion, the Dalits are marginalized to a great extent by gurdwara authorities. For instance, Dhotian village in Tarn Taran district, made headlines in August 2012 for conversion of 40 Sikhs to Christianity. A rumor spread that Dalit Sikhs had converted to Christianity on the grounds of the treatment meted out to the ‘Low Caste’ Sikhs by the gurdwara management. The most prominent place of worship in the village, Gurdwara Raja Ram, does not allow mazhabis to enter its premises. The nihang in the gurdwara explained that the rehat-maryada of the place obligates the followers to comply with a few adherences (Singh, 2012). He justified the prohibition on the entry of mazhabis as they were considered to dress shabbily and were even into drinking, which prompted the administration to decide that they would not perform the langar seva, though the other services were open to all. Kiranjot Kaur, a Shiromani Gurdwara Prabandhak Committee (SGPC) member and former secretary acknowledged the existence of caste-based gurdwaras in the state. Kaur admitted that the influence of caste had been removed from the gurdwaras after the Singh Sabha movement in the early 20th century (www.thehindu.com/news/national/probe-castebased-segregation-in-gurdwaras-panel-tells-punjab-dgp/article5422572.ece).

... contd. ...

seats it contested, it fielded only 27 Muslims (5 per cent). With few Muslims put forward by centrist parties too, it is no wonder that Muslim representation in elected bodies remains poor.

There could be various reasons for poor incentives. A key one is what academics have described as ‘Hindu backlash’ (Hasan, 2004). As Abdul Bari Siddiqui, the senior-most Muslim politician in the ruling Mahagathbandhan alliance in the 2015 Bihar elections (that returned a record number of Muslims to the state assembly – 10 per cent of the total, but still lower than the state Muslim population ratio of 16 per cent) noted (*The Times of India*, 2015c): ‘Had more Muslim candidates been given tickets, BJP would have blamed us for creating a Pakistan in Bihar.’

Share of minorities in public employment

As with representation in elected bodies representation in public employment is also most problematic for Muslims.

According to data collected by the Sachar Committee, Muslims represented only 4.9 per cent of all employees in central and state governments in 2005. Their representation in central public sector undertakings (PSUs) at 3.3 per cent was only slightly bettered by state PSUs at 10.8 per cent (Government of India, 2006: 165). Overall, and across states, public sector employment data for Muslims showed better representation at the lower rungs (poor at the higher managerial levels) and in university jobs, especially non-teaching and in clerical positions in the postal department and railways. Only Andhra Pradesh had close to the population share’s representation in jobs (Government of India, 2006: 170). In the case of senior management positions, the Sachar Committee report found the representation to be even lower – 3 per cent in the Indian Administrative Service, 1.8 per cent in the Indian Foreign Service and 4 per cent in the Indian Police Service (Government of India, 2006: 165).

The case of other minority communities - Christians and Buddhists in particular - is somewhat more nuanced. Almost a third of India’s Christians belong to the Scheduled Tribe (ST) category, eligible for ‘reservations’ in jobs and educational institutions. Despite being a small portion (8 million) of the total (84 million) ST population, ST Christians command a large share of reserved (ST) seats in both central and state services. This is attributed to greater education levels particularly among Christians from the North Eastern states, who mostly happen to be STs and greater demand for public

... Profile of a vulnerable minority continued ...

Dalit Sikhs did not receive equal treatment in the gurdwaras of upper caste Sikhs. 'Mazhabis were forbidden to enter the Golden Temple for worship; their offering of karah prasad was not accepted and the Sikhs denied them access to public well and other utilities' (Singh 1993:146-147,156-57 cited in Puri 2003:2697). Thus, the mazhabi Sikhs have been discriminated against as they are not allowed to use the wells or enter gurdwaras; they are exploited as labourers.

As mentioned earlier, Dalit Buddhists embraced Buddhism; they were moved by the political and spiritual influence of the tradition of a rich Dalit movement in the country. But breaking away from the caste system became impossible for all of them, as they were primarily seen as Dalits by the upper caste Hindu society. Prashita, a 14-year-old Dalit Buddhist girl in an interview commented on the stark reality of discrimination: 'In India, people don't usually ask your name; they ask you, "What is your surname?" and their intention is to know what caste you belong to ... Conversion does not actually change you. Though you are converted, you need to struggle very hard. In Buddhism there is no caste system; we are all free, we are all equal, but we have to put that in our mind first, and only then can we tell society, convince them about this.' Nothing can capture more brilliantly the realization of discrimination of Dalit Buddhists in contemporary society (Srinivasan, 2011).

In the book *Dalit Literature* we find some stories about Dalit Buddhists' conditions. In particular it gives a vivid description of the Mahar community and how it is denied social justice.

The Deshpande report shows the condition of Dalit Muslims as most pathetic among all Dalit groups. To give an idea of the nature of their impoverishment, we discuss the case of Muslims of Mahawat caste. In villages in Barabanki district, there are a group of people living in extremely low socioeconomic conditions, identifying themselves as Muslims of the 'Mahawat' caste. They are mainly engaged in making hand-made decorative plastic flowers and other items and selling them in nearby areas. According to existing literature, Mahawats are a sub-category of the Muslim 'Nat' caste (the other sub-castes being Aman, Goleri, Rari, Siarmaroa and Turkata) who

... contd. ...

sector jobs among them (Centre for Policy Studies, 2011). But that leaves out the large proportion of non-ST Christians from the ambit of any affirmative policy action. This is particularly relevant for Dalit Christians who are excluded from coverage under the SC category. In the absence of disaggregated data for Christian representation in public sector employment, it is difficult to say what the extent of the under-representation is, but suffice it to say that a majority of the Christians face exclusion of representation in public sector employment.

As for Buddhists, almost 90 per cent are included in the SC category and another 7.4 per cent find place within the ST fold (Deshpande, 2008). Between the two, most Buddhists are able to access a range of affirmative action opportunities – reservations for elected seats and in jobs and educational institutions.

Explaining the poor representation of Muslims in public sector employment, the Sachar Committee report noted a general perception among Muslims of being discriminated against in procedures (such as unhelpful eligibility criteria), practices (unrepresentative selection boards) and a general sense of discrimination in selection processes which led to the absence of those in positions of authority raising their voice. This, the report noted, meant lack of any concerted focus at best and prejudice at worst, leading to denial to Muslims of their rightful share of services even in Grade IV positions where high qualifications are not required (Government of India, 2006: 20-21). As for higher positions where there are high eligibility criteria and laid down procedures, based on data provided by the Union Public Service Commission, the Sachar Committee report proposed that the biggest challenge was that not enough Muslim youth applied indicating a possible sense of alienation of Muslim youth from the Indian mainstream (Government of India, 2006: 165-166).

Poor representation of minorities continues to endure. Part of the government's efforts, as a result of the post-Sachar Committee package of measures, was to make greater efforts to recruit members from minority communities. State governments and central government departments as well as large agencies – paramilitary forces and PSUs – were encouraged to make especial efforts, including to report representation periodically. The Amitabh Kundu Committee, looking into the impact of the measures concluded that they had only had a modest impact. *Table 18* reports the percentage of total minority recruitments in government departments and PSUs as a share of total recruitments between 2006-07 and 2011-12.

... Profile: Profile: Caste among religious minorities in India continued ...

are seen across northern India but are concentrated in Varanasi, Allahabad, Barabanki and Jaunpur districts (Samiuddin and Khanam, 2008).

The word ‘Nat’ comes from the word nata or dancer, and identifies a group of vagrant acrobats and showmen ‘especially those who make it their business to do feats on the tight-rope or with poles, and those who train and exhibit snakes’ (Russell and Lal, 1916).

Mahawats live together in colonies as Muslims and Hindus have separated them from others of their religion. Although neither Muslims nor Hindus accept them as their own, Mahawats consider themselves Muslims. They make plastic flowers and take them to cities to sell, and some of them also sell medicinal plants. They leave the old people in the village and the younger ones routinely migrate. They do not have any land of their own, and mostly live on common land in the village in pitiable conditions. There have been many cases of local strongmen forcefully occupying such land.

Inclusion of some of these groups within the Scheduled Caste category continues to be a debatable issue in the country. It is true that the neo-Buddhist population has been identified as a SC and this gives them recognition at least in terms of availing some of the limited facilities available. But it is unfortunate that till date the Muslim and Christian Dalits are fighting for recognition by the state to avail of different facilities offered by the government.

Table 18: : Minorities in public sector employment
 (Figures in per cent)

	2006-07	07-08	08-09	09-10	10-11	11-12
Minorities recruited	6.93	8.23	-	7.28	10.18	6.24

Source: Tabulated from the Government of India (2014a).

In some cases, as with police and security forces, the situation seems to have worsened, decreasing from 8.39 per cent in 2001 to 6.52 per cent in 2011 (Government of India, 2014a:123).

Minority representation in the non-public sphere

Private sector employment

Mirroring the poor minority representation in elected bodies and public employment there is also poor minority representation in corporate sector employment and poor presence in developmental civil society. A recent study reported that representation of Muslims in BSE 500 companies was merely 2.67 per cent. Of the 2,324 directors and top executives in BSE 500 companies, only 62 were Muslims. Among BSE 100 companies, only 27 of the total 587 were Muslims. (*The Times of India*, 2015a). In private enterprises, Muslims constituted 8.16 per cent of the total employees (Khanam, 2013:139).

Minority civil society engagement

A vibrant civil society is understood to facilitate greater outreach, awareness creation, service provisioning and overall engagement among citizens. Whilst civil society, in the true sense of the word, is understood as a non-communal space, its strength (including number of actors and organizations, types and capacity) among community groups, especially those that are marginalized, is a good indicator of the ability of the community to engage and organize, demand and obtain rights and entitlements. In that sense, civil society's strength is an aspect of effective participation.

Data on civil society, disaggregated by minority groups, is difficult to come by. Here are some pointers:

The Home Ministry publishes data on foreign contributions (under FCRA regulations). According to data for 2008-09 and 2010-11, there were 4,700 Christian, 250 Muslim, 100 Buddhist and 14 Sikh NGOs, receiving foreign funds (*The Times of India*, 2012). These groups varied significantly on the extent of funding that they received. Whilst it is not to claim that it is only foreign funding that NGOs rely on to undertake their activities, FCRA and its dynamics provide a good barometer of the contestations between the state on the one hand and minority organizations on the other. In the recent past, especially the last few years during the tenure of the current BJP regime, regulations controlling foreign donations for groups belonging to minority communities as well as those working for the rights of minority groups, have increasingly been made stringent. These have made the space for civil society activism around human and minority rights difficult.

Through an order issued in June 2014 the central government banned over 30 NGOs working for the welfare of minorities from receiving foreign aid. A number of these were either Christian or Muslim-led (*The Times of India*, 2015d). A prominent human rights NGO, Sabrang Trust, has been targeted by the government for its proactive role in fighting for victims of mass violence. The trust, led by social activist Teesta Setalvad is one of the leading voices against violence and injustices against minorities, fighting many cases relating to the pogrom against Muslims in Gujarat (2002). Sabrang Trust as well as another leading human rights group, the Lawyers Collective, have recently had their FCRA registrations revoked thus banning them from receiving foreign funding. This happened even as the government was silent on the funds being received by NGOs affiliated to the Hindu right wing Rashtriya Swayamsevak Sangh (RSS) (*The Diplomat*, 2015) blamed by many authoritative sources for engineering hatred and violence against minorities (Awaaz – South Asia Watch, 2004; Jaffrelot, 2007).

Against the proactive policy of restricting foreign funding to minority NGOs, there is little that the government itself provides for supporting groups led by minorities or those working for minority rights. The only exception here is the scheme for leadership development of minority women, called *nai roshni*. Firstly, the scheme is too small in scope to cover the extent of the problem of minority disempowerment. It is also too new to have had an impact. Anecdotal evidence points to the need for greater awareness about the scheme and its procedures and better implementation by agencies for any meaningful impact on those for whom it is meant.

The outcome is a civil society sector that is very restricted, particularly so for Muslim-led NGOs. A recent study of civil society organizations came up with a list of only 39 Muslim community led organizations (CLOs)¹⁰ (of these 15 were led by Muslim women) across nine states, in which at least three states have large Muslim populations (Centre for Social Equity and Inclusion, 2014). Another study covering eight states with large Muslim populations came up with a sample of 372 NGOs working for Muslims and reflecting some variety in sectors and approaches (Naqvi, 2015). In any case, most NGOs working on minority issues lack capacity, infrastructure and required information.

Backward sections among Muslims (*pasmanda*, including Dalit and Backward Castes) suffer further disadvantage at the hands of self-styled

10. Presumably, these exclude faith-based organizations or those set up for religious purposes.

ashraf (or '*forward*') leaders in faith-based community organizations like madrassas and personal law boards, representative institutions (Parliament and state assemblies) and government departments, ministries and institutions that claim to work for Muslims (minority affairs, waqf boards, Urdu academies and 'minority' universities) (*Table 19*).

Poor participation of minorities

Representation and participation of minorities in governing institutions in India is poor. There are various factors here, including low education attainment and a leadership vacuum among Muslims on the one hand and post-partition backlash on the community and the setting in of majoritarian politics, hardening communal polarization and social exclusion on the other. Observers, however, note a key right that has always been missing for minorities in India, and which has implications for poor participation as 'political' (Robinson, 2012: 9-10). So whilst all citizens, including minority members, were guaranteed equality and non-discrimination to vote, to stand for public office and to access public employment and education, the provisions of the Constitution for special measures for economic advancement of backward sections (Article 15[4]) and for reservations in appointments for backward sections (Article 16 [4]) were understood as excluding religious minorities from their ambit.

Religious minorities were left out of political rights (specifically, reservations for seats in elected bodies and in public employment), in the final draft of the Constitution (1950) and given only cultural rights even though until then they were in the reckoning for this expanded package of rights along with SCs and STs. The 1948 draft of the Constitution carried both political and cultural rights for all the three disadvantaged communities – SCs, STs and religious minorities. It turned out that in the final version of the Constitution, only SCs and STs were bestowed political rights, including reservations for elected seats to Parliament and state assemblies and in public employment and education (Bajpai, 2002:4; Robinson, 2012:9).

Given the dispersed nature of the Muslim population in India (barring the Kashmir valley) and elections based on the first-past-the-post system (encouraging winner take all outcomes) not to mention the other pathologies that Indian minorities are increasingly subject to (rise of majoritarian politics, communal polarization and Hindu backlash), it is difficult to imagine Muslims ever finding fair representation in elected bodies and public

Good practice case study:

The Bharatiya Muslim Mahila Andolan

As the largest minority, Muslims (approximately 14.8 per cent of the total population) face the most exclusions. Different studies and at least three special commissions set up by the central government point out the stark inequalities in terms of every human development index including issues like jobs, life and security, economic status, poor participation in the decision making process and access to basic services. It is of no surprise that amidst their wretched conditions of existence, it is the women within the community who have suffered the most historically for different economic-socio-political factors. Thus, one should not have any doubt in identifying them as 'doubly colonized', which is perhaps a clichéd term but which is very effective in capturing the plight of Muslim women in the country. In developmental projects for the Muslim population, most of the time the case of women has not been properly unfolded with all its complexities because of which it does not receive proper attention.

It is in this backdrop that this case study discusses the experience of Bharatiya Muslim Mahila Andolan (BMMA), popularly known as Andolan, which came into being in January 2007 at a national meeting in Delhi. It was in the aftermath of Gujarat genocide that some of the present day women leaders and main exponents of the Andolan, hitherto unknown, assembled in different rehabilitation camps in the state to assist riot victims. From their experiences, they realized that the state was in complete denial mode as to what had happened to the minorities. Most interestingly they also observed that it was the women among the minority community who had to undergo a strain of a completely different kind as they were the most vulnerable in a riot like this, partly due to their social position in a society like ours. The leaders, from their own work experience among the Muslim community in general and riot victims in Gujarat in particular, realized that Muslim women suffered from multiple marginalizations owing to poverty, lack of education, inequalities and lack of opportunities. The issue of marginalization and injustice was compounded by the fact that it was a minority community which was deeply influenced by conservative, religious and patriarchal forces on the one hand and which existed in extreme poverty on the other. Moreover, rising communalism and fundamentalism had resulted in increased

... contd. ...

Table 19: Pasmanda Muslim representation

Name of the Institution	Total members	Upper Caste (Ashraf)	Backward Caste (Pasmanda)
Executive Committee of All India Muslim Personal Law Board (AIMPLB)	39	36	3
Office Bearers of AIMPLB	11	10	1
Executive Committee of All India Milli Council	48	44	4

Source: Anwar (2000:112).

employment. It is remarkable then that the makers of the Constitution did not consider compensatory mechanisms for the country’s sizeable minorities such as reservations as with SCs and STs, or that other system for political inclusiveness – ‘proportionate representation’ - used quite successfully in many multi-ethnic polities.¹¹

Another opportunity for providing religious minorities some degree of political rights was again missed when the presidential order was passed in 1950 formalizing reservations in legislatures and public employment for SCs. Only those belonging to the Hindu faith were considered fit to be included under the SC category. Christians and Muslims from Dalit backgrounds or those Dalits who had converted to these faiths were left out. The justification provided for this exclusion was that Islam and Christianity were egalitarian faiths, thus a Dalit person who converted to these faiths stopped suffering disabilities that Hindu SCs did. There is enough evidence available, including that collected by official agencies, notably the National Commission for Minorities, to hint at Dalit Muslims and Christians too suffering similar disabilities as Hindu Dalits (Deshpande, 2008). The 1950 order was amended in 1956 to include Dalit Sikhs and in 1990 to include Dalit Buddhists within the meaning of SCs, the egalitarian ethos of the two religions notwithstanding (Robinson, 2012:13). Despite strong public movements, Muslim and Christian Dalits continue to be kept out of the SC category thus denying them political rights provided to the rest of SCs.

11. Nepal’s 2007 Interim Constitution is the latest example of great use of this tool in combination with greater decentralization to share power with territorial minorities and reservations for ethnic and religious ones.

... Good practice case study continued

insecurity and sense of alienation especially in the women members of the community. This realization, coming out of the working experience among the riot victims in Gujarat, triggered off the possibility of forming an informal group within the women exponents of the current day Andolan. In this context it is interesting to note that the leaders of the Andolan also had to undertake journeys of diverse nature in their personal lives to establish themselves. However, formed as an informal group, they started meeting on a periodical basis from the end of 2004 with the intention of working among the women members of the largest minority community in India.

In the initial years, the leaders of the Andolan realized the necessity of involving more Muslim women working in different places on the issue of women in the minority community. Thus, the convergence of interests and objectives made it possible to form a sisterhood, which in the course of their work translated into a dedicated group called BMMA. Finally in 2007 the Bharatiya Muslim Mahila Andolan (Indian Muslim Women's Movement) was formed. The membership of the organization has crossed 70,000 today. The areas of its operations have extended in different states including Gujarat, Maharashtra, Rajasthan, Madhya Pradesh, Karnataka, Tamil Nadu, Odisha, West Bengal, Bihar and Jharkhand.

Organizational Format, Objectives and Area of Activity

A democratic organization, which aims to promote citizenship rights for all, especially Muslim women across the country, BMMA is led by Muslim women themselves. The very name 'Andolan' seems to suggest that its leaders wanted to retain the character of a movement. BMMA is not a formal registered organization; however, it believes in democratic decision-making through discussions and deliberations. The National Council comprises of the founder members and state convenors. Some of the state leaders are active in different civil rights movements and many of them are associated with NGOs. The decision-making body at the national level meets three to four times a year and decides on the programmatic and other agenda. The National Working Committee, consisting of seven senior members is responsible for running the organization on an everyday basis. Apart from this, the Andolan has an informal advisory group of eminent activists, academics and civil society leaders; their experiences are usually drawn on in devising a mechanism to work among the target

... contd. ...

Identity and culture

Constitutional position

Cultural rights of minorities under the Constitution include mainly right to freedom of religion (Articles 25 and 26); freedom against religious instruction or worship in educational institutions (Article 28); right to preserve one's distinct language, script or culture (Article 29); and special educational rights for linguistic and religious minorities (Article 30).

In terms of how the state relates to different faiths, in 1979 the Preamble to the Constitution was amended to include 'secular', signifying a desire to accord equal status to all religions and remain equidistant from all. This forms the core of the plural character of the Indian state as evidenced from the Constitution. Sections of religious minorities also happen to be linguistic minorities. Constitutional provisions with regard to linguistic minorities include Article 347 (special provisions relating to language spoken by a section of the population, Article 350 (citizens' right to submission of representation in any language used in the union or in the state), Article 350A (instruction in mother tongue at the primary stage) and Article 350B (appointment of linguistic commissioners to safeguard the rights of linguistic minorities). Finally, certain sections of the Indian Penal Code (IPC) have bearings on the preservation of social harmony among different faith, linguistic (and other) groups. The government has claimed its purported social goal of maintaining harmony in diversity – what is called 'unity in diversity'.

'Indigenous' versus 'non-indigenous' religions

The first issue relates to the definition and status of 'Hindu' under the Constitution. This has implications for how minority religions such as Islam, Christianity and Zoroastrianism are considered 'non-indigenous' as well as so-called indigenous ones - Sikhism, Buddhism and Jainism - are treated in law and its interpretations, vis-a-vis the majority Hindus, with wide ranging implications for the rights of citizens identifying with those minority religions. The non-indigenous tag for Islam, Christianity and Zoroastrianism means that many minority rights – particularly Article 25 (especially the freedom to profess and propagate religions) and those to follow personal laws of marriage, inheritance and adoption – are slowly being chipped away. As for 'indigenous' faiths, the National Commission for Minorities (NCM) Act 1992 recognized Sikhism and Buddhism as separate religions, distinct from Hinduism as minority religions. Recently, NCM has accorded religious minority status to Jainism. However, Sikhism, Buddhism and

... Good practice case study continued ...

group. An identical structure also exists at the state level which is accountable for running the affairs of the Andolan on a day-to-day basis in different states.

A rich blend of modernity and tradition is what marks BMMA's nature as it embraces modern, liberal, democratic and secular values enshrined in Indian Constitution on the one hand, and draws its inspiration from the Quran to uphold the values of peace and justice for all (including women) on the other. Unambiguously, the goal of the Andolan is to unshackle Muslim women from the bondage of poverty to enable them to lead lives of equality and justice with dignity. The broad objectives of the Andolan can be divided into four major themes: 1) to work towards understanding and ameliorating the marginalization, backwardness and insecurity of the Muslim community with a definite and special focus on Muslim women to ensure their social, economic, political, civil, legal and religious rights, 2) to promote liberal interpretations of religion which are in consonance with the principles of justice, equality, fairness and protection of human rights, 3) to oppose communalism, neo-liberalism and patriarchy, and 4) to take forward the process of legal reforms within the Muslim Personal Law.

There is a realization among the rank and file of the organization that the state is not meeting the demands of the minority population in every aspect of life. Thus, it is no wonder that the Andolan engages in a continuous process with the state and takes up issues of the economic, social and political rights of the minority population. While taking up the issue of life and security in a wider sense of the term and pointing out the failure of the modern state to protect the minorities, the Andolan also challenges the notion of the self-proclaimed Muslim male leadership in the country. The bridge, established between the modern state and the patriarchal Muslim leadership that assumes to 'represent' the entire community, has been challenged by BMMA. BMMA's objectives and activities have seriously questioned the problematic nature of the representation of women under the hegemony of a patriarchal Muslim leadership. This probably explains BMMA's focus on taking up the issue of gender justice in the broad sense of the term.

As part of its struggle to promote women rights, BMMA works on education, jobs, security, law and health. The BMMA pamphlet for 2016 notes:

1. Campaign for the implementation of Sachar report and all schemes and entitlements due to the Muslim community.

... contd. ...

Jainism continue in law and practice to be subsumed under Hindu. Their personal laws, for instance, are governed by the Hindu Code Bill. The definition of Hindu in Article 25 2 (b) of the Constitution and its ratification in the Hindu Code Bill and other legislations,¹² treats Sikhs, Jains and Buddhists as a part of the Hindu community refusing to recognize their distinct identities or accord them minority privileges despite demands by members of the communities. This compromises the multicultural character of the Indian state.

Anti-conversion laws: Restricting freedom of religion

Article 25 gives citizens the freedom of conscience and the freedom to profess, practice and propagate their religion. Yet there are many restrictions, both in the law and how it is interpreted and implemented by state authorities (and law courts) when it comes to Muslims, Christians and other faiths, not seen as 'indigenous' exercising that right, especially to profess and propagate. This relates to the issue of 'conversions' and the restrictions imposed on missionary groups. Given the definition of Hindu in Article 25 of the Constitution, 'conversion' implies change of religion to Islam, Christianity, Judaism or Zoroastrianism, but not to one of the three 'indigenous' religions (Jainism, Buddhism and Sikhism) subsumed under Hinduism. In many cases, and increasingly, the law itself is being amended or new laws are being made to prevent conversion. There is a historical background to this. In the post-independence era, in 1954 the Parliament took up for consideration the Indian Conversion (Regulation and Registration) Bill and later in 1960 the Backward Communities (Religious Protection) Bill, both of which had to be dropped for lack of enough support. A similar attempt much later, the proposed Freedom of Religion Bill of 1979, was opposed by the Minorities Commission due to the bill's evident bias (Legal Service India, 2011).

Several Indian states (Odisha, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh and Rajasthan) have passed freedom of religion legislations primarily to prevent people from converting to Christianity and Islam. Legal interpretation too has favoured a restrictive application of Article 25. Laws enacted by the Odisha and Madhya Pradesh high courts were challenged in the Supreme Court citing rights under Article 25. But the court in its judgment supported the laws saying, 'What is

12. Notably, the Hindu Succession Act, 1956; the Hindu Marriage Act, 1955; the Hindu Adoptions and Maintenance Act, 1956; and the Hindu Minority and Guardianship Act, 1956.

... Good practice case study continued ...

2. Demanding implementation of all state reports for the political and social empowerment of the Muslim community.
3. Creating awareness and running programmes with Muslim youth and women and doing advocacy on issues of education, health, security, livelihood and PDS (through Sehr, Udaan and Karwaan).
4. Creating awareness about the Quranic rights of women and codifying the Muslim family law within the broader framework of Islamic feminism and the Indian Constitution.
5. Setting up alternative institutions and structures within the community to address institutionalized discrimination against Muslim women.
6. Conducting studies and research to highlight the conditions and demands of Muslim women.
7. Organizing and aligning with Dalit Muslim women and other subaltern women to highlight their specific issues and concerns.
8. Opposing communalism and working for upholding pluralism and diversity in society.
9. Highlighting and challenging the fundamentalism of conservative religious/cultural groups and working towards building and supporting alliances of women and youth across religions.
10. Creating alliances and solidarity with other subaltern feminist groups for addressing common issues of deprivation and discrimination.
11. Bringing before the world the social and political contribution of Muslim women.

Some of the achievements of the Andolan are:

1. Formation of Sehr groups comprising of young Muslim women in several cities.
2. Formation of Udaan groups comprising of young Muslim boys in several cities.
3. Running vocational training centres called Karwaans in seven cities.
4. Managing Aurton Ki Shariah Adalat in three cities.
5. Established the Darul Uloom e Niswaan – Centre for Religious Learning and Theology for women.
6. Prepared draft of Muslim Family Law which forms the basis of its work on law reforms.

... contd. ...

freedom for one, is freedom for the other in equal measure, and there can, therefore, be no such thing as a fundamental right to convert any person to one's own religion.' This position was criticized because it ignored Article 25 and did not differentiate between forced conversion and conversion by persuasion. Restrictions to Article 25 have taken more direct forms too.

It has been reported that since the 1960s, no new foreign Christian missionaries have been granted visas to work in the country. Still other laws seek to limit the entry of any foreign religious institution or missionary. Observers see the recent wave of anti-conversion laws in various Indian states as a gradual increase of the grip that ideological Hindu nationalism has on state institutions (US State Department, 2014). States that do not still have anti-conversion laws resort to provisions in IPC to target minorities. Section 153, prohibiting 'promoting enmity between different groups on grounds of religion, race, place of birth, residence, language and doing acts prejudicial to maintenance of harmony' and Section 295A, prohibiting 'deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs', are often and mischievously used by a biased law enforcement to target missionaries and religious groups engaged in conversions. These together also provide the backdrop (and rationalization) for much of the violence against Christian missionaries (see Osuri, 2013b for a discussion on this).

Personal laws and the secular character of the state

The Constitution is seen to act to disincentivize conversions to so-called non-indigenous faiths thus acting unfairly in its treatment of citizens. A particular instance is the application of the Hindu Marriage Act 1955, that enables discrimination on grounds of conversion to a non-Hindu religion (Islam, Christianity, Judaism and Zoroastrianism). Children born to a Hindu after s/he has converted to another religion (and their descendants) are disqualified from inheriting property, unless any descendant re-adopts Hinduism before opening of succession. This acts as inducement for re-conversion to Hinduism. Further, the act enjoins that a wife's consent for adoption of a child is necessary only if she remains Hindu. And a married Hindu woman can directly adopt a child without the consent of her non-Hindu husband. Further, there is gender discrimination as well. A Hindu wife cannot directly adopt a child if her husband is Hindu. She can only be a consenting party (Engineer, 2012).

There are other instances too of the law violating the secular character of the Constitution and discriminating between religions, privileging Hindu

... *Good practice case study continued ...*

7. Conducted national studies and researches for campaigning and advocacy.
8. Stood up in solidarity with the efforts of people from different excluded communities to uphold the constitutional values of social justice and equality.

These achievements are a direct result of BMMA's continuous engagement with women from the grassroots. Thus, for instance, organizing public meetings to create awareness among the women is an everyday act. We will come back to the issue of public meetings while discussing in some detail a few of the major achievements of the Andolan. The Andolan has been active in different parts of the country connection with creating livelihood options for the minority population, with special reference to women's employment. For instance, in 2011 the Tamil Nadu unit of the Andolan led the right to food campaign; 245 persons benefited with OAP, ID cards and ration cards in Sivagangai district; 95 women and men benefited with OAP, ID cards and ration cards in Dindigul district; and 30 women and men obtained OAP, ration cards, ID cards and community certificates in Rannad district. The achievement of the Odisha unit in the same year in terms of creating employment opportunities for women is worth mentioning. Paper bags and thongas were marketed to boutiques and different shops. This scheme benefitted 20 women. Young girls and women have been empowered and they are marketing their products. Ten Muslim women benefitted by supplying small envelopes to homoeopathic shops and hakims. Hamara Bagicha is a project in two districts of Odisha, Bhadrak and Cuttack Rural. Eight women have benefited from the project, the objective behind which was to help and encourage all eight members to grow healthy food which they can eat and sell to make profits. Apart from providing seeds, BMMA also provided them training on organic farming. Hamara Beapar is a project in two districts in Odisha, Khurda and Cuttack which supports six women.

Muslim Personal Law: A Battle

Let us now turn our attention to some of the Andolan's major achievements to get an idea of how it works at the grassroots level. Reform in the Muslim personal law is one of the primary objectives that the Andolan has been working for.

Draft Muslim Family Law (Heading C)

Over the last several years through multiple consultations involving

... *contd. ...*

faith. One of the grounds for divorce in the Hindu Marriage Act is conversion by one party to ‘another’ religion and his/her ceasing to be a Hindu. Further, under the Special Marriage Act 1954, a Parsi, Muslim, Christian or Jew loses coverage of his or her personal laws for succession and will be covered under the Indian Succession Act of 1925, but a Hindu, Buddhist, Jain or a Sikh will retain the personal laws for succession except when it is an inter-religious marriage. This makes the state discriminatory as it favours some religions over others.

But there have been progressive developments too. In a landmark judgment in 2014 the Supreme Court ruled that any person can adopt a child under the Juvenile Justice (Juvenile Justice Care and Protection of Children) Act 2000, irrespective of the religion that he or she follows and even if the personal laws of the particular religion do not permit it. The right to adopt a child - till now restricted to Hindus, Buddhists and Jains – was thus extended to Muslims, Christians, Jews, Parsis and all other communities. Terming the JJ Act a ‘small step towards formation of a uniform civil code,’ the court said that a person was always free to adopt or choose not to do so and, instead, follow the personal law (India Today, 2014).

Saffronization of education

Education and schools are the crucibles of national identity. From representations of the nation’s history, to what makes its society and the roles that different sections play, are all material for the development of a national identity. It is also for this reason that public education policies and practices are often contested spaces between different ideological positions. What is taught in schools and textbooks goes a long way in making or breaking a plural society.

In recent times, and in clear violations of the constitutional provision guaranteeing freedom from attendance at religious instruction or worship in educational institutions (Article 28) the BJP ruled Madhya Pradesh and Rajasthan have introduced in government and government-aided schools, practices of a religious nature favouring the majority Hindu faith (*suryanamaskar*). In Rajasthan, the government has asked private schools too to follow the practice (*The Times of India*, 2015b).

But attempts at Hindu homogenization run deeper than this. In the late 1990s, the national government began school textbook revisions without much of a public consultation. These particularly affected history

... Good practice case study continued ...

thousands of Muslim women, lawyers and religious scholars BMMA has prepared a draft Muslim family law based on Quranic tenets concerning age at marriage, mehr, talaq, polygamy, maintenance and custody of children. These are in consonance with the Constitution of India. Some of the important provisions of this draft law are:

1. Minimum age of marriage of a girl to be 18 years and a boy to be 21 years at the time of marriage.
2. Consent of both parties must be obtained without force or fraud.
3. Minimum mehr to be equivalent of one full annual income of the groom to be paid at the time of the nikah.
4. Talak-e-ahsan to be the method of divorce requiring mandatory arbitration over a 90 day period; oral unilateral divorce to be declared illegal.
5. Maintenance during marriage is the responsibility of the husband even if wife has an independent source of income.
6. Maintenance after divorce as per the Muslim Women's Protection on Divorce Act, 1986.
7. Polygamy to be declared illegal.
8. Both mother and father are natural guardians of the child.
9. Custody of a child based on the best interests of the child and the decision of the child.
10. Halala to be made an offence.
11. Muta marriage to be made an offence.
12. In property matters Quranic shares to be applied after making a will and clearing debts.
13. Daughters to get equal share as sons through hiba or gift-deed or will.
14. Compulsory registration of marriages.
15. Qazi to be held accountable for violations during talaq, polygamy and in other such matters.

Divorce and Right to Alimony

In 1986 the Supreme Court ruled that divorced Muslim women who were unable to sustain themselves were entitled, like their counterparts from other religions, to alimony throughout their lifetime or till they remarried. But the government of the day passed a law reverting the alimony period to the traditional three months, with a provision for women to move court if denied this relief. Wakf boards are expected to help the women after this

... contd. ...

textbooks. Few well-formulated propositions about pre-modern society in India, informed by the national anti-colonial movement's stress on pluralism and nation-building were revised and some deleted without debate and discussion. Observers have noted that this was a blatant attempt to replace mainstream (multi-cultural) history by the Hindutva version of history, basically seeing history through the prism of a Hindu-majoritarian ideology at a time when the then BJP-led government at the centre wanted the state educational system to conform to a Hindu-infused curriculum espoused by RSS and other Hindu cultural organizations to weaken the secular underpinnings of the Indian nation (Habib et al., 2003).

According to noted historian Bipan Chandra, Hindu communalism unfolding rapidly in the country from the late 1990s, is essentially an ideology and a communal interpretation of history which forms the core of this communal ideology (see Bipan Chandra 2001 and Thapar 2001). Much of this related to the relationship between Muslims portrayed in these accounts as non-indigenous invading forces and Hindus as victims in medieval India and its implications for inter-community relationships in modern India. Two myths were used by communal historians to point out the threat that the Hindus might face from the minority Muslim population. Firstly, the medieval period was a long history of Hindu-Muslim conflict where Muslims were seen as foreign invaders and Hindus, by and large, at the receiving end. And secondly, the entire medieval period was a 'dark age' compared to the 'glorious' advancement that India had made in ancient times. History taught in schools in this manner helps to create and consolidate communal divides against minorities and goes against the very ethos of secularism (Habib et al., 2003). This narration of history generates elements that are being manifested in popular culture. Thus, for example, over-glorification of ancient (read Hindu) India and denigration of the medieval period (read Muslim) is being reproduced in popular literature - cartoon strips, children's stories, television serials and social and mainstream media.

With the BJP returning to power in 2014, the communal fabrication of history with its implications for homogenization has started again and is rapidly spreading to other disciplines including the sciences. This organized effort to promote a history and worldview inimical to pluralism and an inclusive Indian identity is having repercussions in marginalizing minorities.

... Good practice case study continued ...

period but they say that they lack funds. Organically connected with this, Muslim women also face discrimination, at least in the present context of the interpretation of Sharia law, in Muslim men's right to polygamy and oral divorce.

Yasmin Khatoon, 32, a graduate from Kolkata, was orally divorced when her elder daughter was 6-years-old and her younger daughter was just six months old. Twenty-year-old Mumbai resident Sumana's five-month long marriage ended in an unfortunate oral talaq. In both the cases the women were denied any alimony, not even the three-month maintenance stipulated by Muslim personal law. BMMA claims that Yasmin and Sumana are not isolated cases. Asma from Jaipur left her family and converted to Islam to marry the man she loved. But instead of providing her a home, he pronounced triple talaq and tried to grab her house.

Another case is of Farida whose husband gave her a talaq on the grounds that she wore spectacles. It is, of course, ridiculous to hear instances of Muslim men divorcing their wives through letters, on telephone, Facebook, WhatsApp and other social media.

The real success of BMMA lies in its ability to connect to this vast majority of the destitute population. It is no wonder then that Yasmin, Asma, Farida, Sumana and many others are among the 70,000 members of the eight-year-old Andolan. The Andolan meticulously meets people throughout the year by taking up some activities. Without public meetings and continuous awareness programmes, the Andolan could not have taken up the issue to reform the Muslim personal law. From a 2011 report it can be seen that all the state units were busy in mobilizing women and creating public awareness through campaigns. Mention should be made of the public meetings organized by the BMMA unit in Uttar Pradesh where the issue of codification was discussed with the participants. The focus was on reforms pertaining to polygamy and halala.

In another public meeting organized by the Khajuraho district unit in Madhya Pradesh, this issue was discussed with members of the organizations working in the area. More than 500 women attended this meeting where rights of women in Islam were also discussed. A draft was prepared for codification which was circulated among different experts to seek their opinions. In Odisha and Uttar Pradesh, the BMMA units took the initiative independently to call the lawyers for consultations. All these activities seem to suggest that the call to

... contd. ...

Minority educational institutions

Many believe that the most important minority right is contained in Article 30 – the right of minorities to establish educational institutions. While most rights conferred on citizens refer to all religious communities, minorities in particular are extended the right to manage educational institutions to provide for religious education in such institutions and to receive aid from the state to run these institutions. Article 30 is aimed at helping religious and linguistic minorities preserve their unique culture and identity, something that they can do by establishing institutions for this purpose. But just as the Constitution provides, it also takes it away. Restrictions have been placed on Article 30 through the provisions under Article 29 (2), which prohibit any citizen from being denied admission in any educational institution maintained by or receiving aid from the state, on the grounds of religion, race, caste or language.

Multiple judicial re-interpretations of particular provisions have resulted in weakening the right. The Supreme Court, in its judgment in the St. Stephen's College case (1992) placed a bar on the percentage of students that a minority institution could take from its own community at 50 per cent. The purported purpose was to promote national integration. Observers criticized this judgment, arguing that similar logic is not applied to reserve seats for minorities in non-minority institutions. According to them, the restriction placed amounted to placing the entire burden of national integration on the minorities. Another Supreme Court judgment, this one in the case of the TMA Pai Foundation (1997) was according to observers an unmitigated disaster for minorities (Nariman, 2014:44). The judgment had the outcome of watering down Article 30. Originally, the right of minorities to establish educational institutions was equated with the fundamental right granted to religious and linguistic minorities under Article 19 (to practice any profession, occupation, trade or business) as an unrestricted fundamental right. The re-interpretation of the right in the TMA Pai Foundation case, led to 'reasonable restrictions' being placed on the right through invoking Article 19 (1) (g). Recent attempts by the Government of India to bring in dispute the 'minority character' of Aligarh Muslim University (AMU) and Jamia Millia Islamia (JMI), two national institutions identified with Muslims, is the determined move of the state in the same direction (The Wire, 2016).

Clearly, the plural character of the Indian state, guaranteed in law, is still to be realized in practice and indeed, the secular character of the state is coming under increasing attack.

... Good practice case study continued ...

reform the Muslim personal law could not have taken place without the active support and engagement of the large mass of the population.

The Andolan realized this from its early days and hence one can witness a thrust on mobilizing larger public opinion for reform in Muslim personal law. Most importantly, in its struggle to reform the law BMMA has gone beyond its usual circle. BMMA started collaborating with other like-minded organizations to come up with a common draft. Hence, a joint meeting was held between the Centre for Study of Society and Secularism and BMMA. In 2011, the draft of the Muslim family law was sent to experts for their opinions. The Muslim Lawyers Association, Majlis and AIDWA were also approached for their opinions and cooperation.

How exactly does BMMA function to reform Muslim personal law to protect women? What is the source of its understanding that many Muslim women want a reform in the Muslim personal law? In order to understand the hardships of people like Sumana and Yasmin, the Andolan embarked upon completing a task across different states that required some intense surveys to come to some fundamental conclusions related to issues such as marriage, divorce, maintenance, custody of children and the traditional oral talaq. One such national study on Muslim women's views on reform in the Muslim personal law was released on 20 August 2015 in Delhi by the organization. This study was conducted across 10 states. As part of this study, 4,710 Muslim women were directly surveyed.

Another national survey called No More Talaq, Talaq, Talaq: Muslim Women Call for a Ban on an UnIslamic Practice was released at the 9 Annual Convention of BMMA held in Delhi on 6 November, 2015. This report carries case studies of over 117 Muslim women who have been victims of triple talaq. The report unhesitatingly highlights that an overwhelming majority of the respondents want a reform in the Muslim personal law in matters related to polygamy, marriage, divorce etc. (dna.com; The Hindustan Times, 2015) The survey, while bringing out the reality, is not the single factor that led to a reform in the law. A re-interpretation of the Quranic principles was also important that gave BMMA a basis on which they demanded a reform. In this connection, the knowledge and opinions of established experts on the Quran were also drawn on. However, there was opposition from the Muslim Personal Law Board. As a response, BMMA

... contd. ...

Conclusion

In a special debate in Parliament in November 2015 to commemorate 65 years of the adoption of the Constitution (in the Constituent Assembly in 1949), a senior leader of the ruling BJP, raised issues with 'secularism', noting how it had become the most misused word in Indian politics, arguing that the time had come to end such misuse (*The Hindu*, 2015). Earlier, in an advertisement released by the central government on the eve of Republic Day, the word secular had been edited out from the Preamble of the Constitution. Some claimed that this was a mischievous attempt by the ruling BJP to test waters in an attempt to undermine secularism (Punyani, 2015). Hindu nationalists have for long resented the secular aspects of the Indian Constitution and by extension of the Indian state. For a senior government minister to say so in a formal debate in Parliament was however a first. BJP and its associates have sought to force their Hindu majoritarian views in the past too. In its last stint in power at the centre, the BJP-led National Democratic Alliance (NDA) government had sought to push for a review of the Constitution, many claim with an eye to changing its secular character, among others.

The only reference to secularism in the Constitution is in its Preamble inserted only in 1976. But the provisions that have existed from the beginning, emphasizing religious freedom, freedom of conscience, equality and non-discrimination, leave no doubt about the Constitution's secular character. In the circumstance, NDA's plans for a major surgery of the Constitution came a cropper. But what has endured is the Hindu nationalist parties' commitment, as evidenced by their statements and actions from time to time to transform India from a plural country founded on secular principles to one that clearly has a Hindu imprint offering only second-class citizenship to its many minorities.

The tension between the current plural-secular character, written in law and that desired by a powerful section of the political community to see India as a Hindu *rashtra* (nation) is growing. These tensions came to a head recently with the BJP coming to power at the centre with a clear majority thus enabling an avowedly majoritarian party for the first time in independent India to be in a position to change laws governing majority-minority relations, the role of religion in matters of the state and such like. These are no mere threats – in states, as well as at the centre, where it has been possible for BJP and its allies to introduce Hindu cultural principles and practices they have done so, as we saw in the case of special Hindu prayers

... Good practice case study continued

circulated documents, re-interpreting the Quran and drawing on different sources/writings of famous scholars, detailing issues like triple talaq as non-Islamic.

However, if not among conservative Muslim leaders, the Andolan's acceptability is ever growing in the country, as is evident from the recent meeting organized by the AMU Teachers Club on Women's Day where one of the founding leaders of BMMA was invited. In her speech Ms Zakia Soman shared her experiences of working with Muslim women and the necessity to reform the Muslim personal law in a patriarchal setting; her speech was well received. BMMA, as part of its agenda to reform the personal law on different issues that shape a Muslim woman's life, has written to Prime Minister Narendra Modi demanding codification of the Muslim personal law to end discrimination against women (The Hindustan Times, 2015). Though we are yet to see any change in the Muslim personal law's framework, the relentless call to reform coming from one of the most deprived sections within the community is growing which might draw policy-makers' attention to call for a review of the law in the future.

Qazi Training: Challenge to the Patriarchy

BMMA has also formed the Darul Uloom Niswaan (DUN), a centre for Islamic learning and theology. As part of this initiative, DUN has started training of women qazis (law officers, under shariat law). The initiative began in Jaipur with a group of 30 Muslim women who have embarked on the journey to becoming qazis. Candidates from across different states such as Maharashtra, Gujarat, Rajasthan, Madhya Pradesh, Tamil Nadu, Karnataka, Bihar, West Bengal and Odisha have so far undertaken two modules of training of three days each. During its work in different states over the last ten years BMMA has observed that owing to ignorance about Quranic injunctions there is widespread practice of triple talaq and halala in spite of there being no Quranic sanction for them. This is a way of challenging the male dominated interpretation of Muslim law. One of the objectives is to impart Islamic teachings that talk of gender justice principles.

The candidates have been given training in Quranic injunctions pertaining to marriage and family, personal laws in Muslim countries, the Constitution of India and the basics of Indian and global jurisprudence pertaining to gender justice and equality. Apart from this they have been trained in preparing elaborate nikahnamas,

... contd. ...

introduced through a government fiat in public and private schools in Madhya Pradesh and Rajasthan, both ruled by the BJP. Perhaps what is preventing a complete overhaul of the constitutional framework and the breaking up of the plural arrangement is rules of the game that disallow changing the 'basic structure' of the Constitution something defended jealously by constitutional courts. Some observers, however, believe that it is the Hindu underpinnings of the Indian Constitution, as it exists already, that make it possible for Hindu majoritarian parties to continue to have the resonance that they do among citizens and keep the pot boiling, so to speak. They contend that the secular foundations of the Indian republic are shallow.

Pritam Singh (2005) has argued, and many have concurred (Perry Anderson, 2012, among them), that 'despite the many admirable and historically progressive features, the Indian Constitution has many elements of retrogressive Hindu bias in it.' Singh (2005: 921) further argues, 'recognising the Hindu bias in India's constitution helps to show that Hindutva in India is widespread and deeply rooted and goes beyond what is represented by the Hindutva group of organisations known as the *Sangh Parivar*.' He goes on, 'this Hindu bias must be seen in the larger context of the continuation of Hindu bias in the national movement for India's independence. The rise of Hindutva forces can be considered more a continuation and deepening of that bias than a rupture with it' (Singh, 2005: 2).

- i. The bias according to Singh, starts with Article 1 of the Constitution, naming India as *Bharat*, a decision arrived through a compromise between the then ruling Congress party and a Hindu *sanyasi* who went on hunger strike for the adoption of *Bharat* (in place of India) (Singh, 2005: 911). *Bharat* has Hindu overtones. Article 1, according to Singh, also hints at another compromise to Hindutva forces – the choice of union, in place of federation, as a system of governance, a choice favoured by Congress, but particularly by Hindutva parties, standing for a Hindu, Hindi India that battled for a strong centre in place of a federation favoured by other parties, prominently Muslim League, but also Sikh parties and those representing the southern provinces in the Constituent Assembly (Singh, 2005: 914).
- ii. Article 25 (freedom of conscience and of free profession, practice and propagation of religion) provides another instance, according to Singh, of a Hindu bias, with Section 2 (b) expressing special interest of the state in favour of 'social welfare and reform' of Hindu religion. Singh clarifies: 'It seems that the overriding concern behind these social reform mea-

... Good practice case study continued ...

conducting a nikah and divorce procedures as per the talaq-e-ahsan method found in the Quran.

However, the journey has not been smooth as can be seen from different reports and incidents. Different Muslim religious organizations like the All India Muslim Personal Law Board and the Jamait-Ulema-i-Hind have objected to the very idea of women qazis. In another instance, two women Jahan Ara and Afroz Begum who became qazis came under verbal assault from different quarters of society. But the training proved to be productive as these two women qazis are not worried by the assault. Jahan Ara commented, 'I have been working for Muslim women since a long time. I understand their daily trials and tribulations, and I realise there is a need to view issues in the Muslim community from women's perspective.' Similarly, Afroz defended Quranic teachings of equality and commented, 'People are opposing us but nowhere in Quran it is said that a woman can't be a qazi. True, women can't be Imams (one who lead prayers in a mosque), but they can be qazis and help women' (Yasmin, 2016).

Important Features of the Andolan

It appears from BMMA's note, 'Bharatiya Muslim Mahila Andolan: Justice, Equality, Wisdom, Compassion, Freedom' note it works both at the local and pan-Indian levels. The essence of the training and conducting surveys bear testimony to a fine collaboration between the local and national levels. In fact, it will not be an exaggeration to say that the crux of its advocacy power at the policy level lies in the sheer number of its members – 70,000. What is even more important is that common Muslim women, defying the patriarchal notion of a traditional Muslim family (of course not everyone belongs to the highly orthodox, oppressive family structure), have come out to become a part of the Andolan that calls for a transformation of the traditional understanding of Islam and putting forth a more humane face of the religion. The intense network of BMMA workers in different states is helping in making this possible.

Lessons Learned

After talking to Ms Zakia Soman, the following points can be mentioned as the lessons that can be drawn. BMMA is a Muslim women's organization but it has been able to successfully break down the patriarchal 'stereotype' of the Muslim community. BMMA's working pattern shows that it seems to have grasped the intersectionality between gender, religion and patriarchy as a first step in building a

... contd. ...

asures was to prevent the exodus of the dalits from the Hindu fold.’ This, he concludes was an instance of active state intervention to consolidate the Hindu identity (Singh, 2005: 915). In any case, Explanation II of the article (situating Sikhs, Jains and Buddhist under the wider Hindu category) reflects a Hindu assimilationist perspective towards these communities in India. We have seen in our own assessment elsewhere of this formulation of Hindu, how the definition favours the majority faith at the expense of other ‘non-indigenous’ faiths.

- iii. There is also Article 48, a Directive Principle that urges the state to, among other things, endeavour to prohibit the slaughter of cows and calves and other milch and draught cattle. Insertion of this clause, according to Singh (2005: 917), is ‘an unmistakable reflection of the religious preferences and powers of the dominant upper caste Hindus among the constitution makers.’
- iv. Finally Articles 343 and 351, on Hindi in Devnagiri script being adopted as the official language of the union and the directive to develop the Hindi language respectively. According to Singh (2005: 917), ‘the importance accorded to Hindi language and especially to the Devnagiri script and the Sanskrit language in the constitution reflects the strong pro-Hindi and pro-Hindu bias of a very powerful section among the constitution makers.’

In this formulation, it is these Hindu underpinnings of the Indian Constitution, despite its clear progressive elements that seem to have compromised the essence of secularism as it affects citizens – equality and non-discrimination and also why minority rights in India have been interpreted as being mostly about cultural autonomy, with little to show on effective participation of minorities – in decision making at the national and local levels. Our own conclusion, drawn from an empirical analysis in the previous sections about the poor ability of the law to enforce equality and non-discrimination, echo these arguments. Clearly mere claims of secularism and multiculturalism are not going to go far enough, as evidence shows already. Without clear cut safeguards and a strong regime of anti-discrimination it will be difficult to ensure effective realization of minority rights in India.

Some other general conclusions

- a. A survey of the state of religious minorities in India across the four minority rights,¹³ makes it clear that there is great variation in how religious

... Good practice case study continued ...

struggle. Through its on-going struggle, BMMA has tried to portray a face of the religion. Despite being a minority, BMMA works within constitutional provisions. The emphasis on *jiski ladai uski agwayi* (my struggle, my leadership) has been a good guiding principle. The organization has been able to bring in several Muslim women as social leaders as well as change makers in their personal lives. The working pattern and the all-India nature of the campaigns confirm that the campaigns are grounded in various local contexts, which enables maximum participation of women.

BMMA as an independent civil society organization points out the need to stay away from political parties as such an influence can affect ground level activists/activism. In mobilizing and working for the minority community, BMMA has engaged with the media in a sustained way but has not succumbed to the ideas/ideologies of media houses.

minorities perform on these four parameters. *Table 20* tries to plot the concerns that specific minorities have on the count. Clearly Muslims, besides Christians and Buddhists, especially those from backward sections, suffer the worst disabilities.

- b. Availability of data disaggregated by religious groups is a big challenge to the effective monitoring and tracking of minorities' performance. There is little systematic tracking and reporting of the state of minorities and rights violations in the country. The National Commission for Minorities and the union Ministry of Minority Affairs, the principal institutions for realizing minority rights in the country, produce poor reports. Besides that there are occasional, stand-alone and limited studies of which the Sachar Committee, Ranganath Mishra Commission and Kundu Commission reports are the principal official ones. There is also little non-state effort as most of it is around violence and some socio-economic rights. The Sachar Committee had proposed the setting up of an agency to collect and analyse data by socio-religious groups. The central government responded to this recommendation by announcing the establishment of the Assessment and Monitoring Authority (AMA).

13. Of life and security, Socioeconomic rights, Participation and Identity and culture.

Table 20. Minorities and their denials

	Life & security	Socioeconomic	Participation	Identity& culture
Buddhists	✓	✓	-	✓
Christians	✓	✓	-	✓
Jains	-	-	-	✓
Muslims	✓	✓	✓	✓
Parsis	-	-	-	✓
Sikhs	✓	-	-	✓

Source: Anwar (2000:112).

But AMA has been a non-starter (Government of India, 2014b). One of the few official data to be made available to the public is police data published by the National Crime Records Bureau (NCRB). Since 2009, NCRB has been reporting prison data of detainees, under-trial prisoners and convicts by religious and other groups for each state. Similarly, it has reported the share of minorities in police forces in each state. It was reported recently that the government had decided to stop reporting even this data (*The Indian Express*, 2015).

Lastly, a quick word about the National Commission for Minorities (NCM) – the principal national institution for the protection and promotion of rights of minorities in India. Set up in 1978, NCM was granted constitutional status in 1993. But it has done little to develop the condition of minorities which was its charter (Rahman, 2002). The other national institution for promotion of pluralism, the Prime Minister-chaired National Integration Council, has also been a non-starter in either promoting the rights of different sections or preventing discord between social groups (Srivastava, 2013).

Recommendations

Here we propose some tentative recommendations

For state parties:

- Data disaggregated by religion on life and security and socioeconomic rights and working of laws and programmes, collected and reported publically to enable effective tracking and documenting of outcomes for minorities. The Assessment and Monitoring Authority

set up to better record outcomes for excluded groups must be revived and strengthened and the scope of its data collection, tracking and dissemination must be expanded to include all minority rights. Or alternative arrangements be made to realize the goal of standardized data disaggregated by religious groups, available periodically, to aid in tracking.

- The Justice Ranganath Misra report (Government of India, 2007b) recommended that SC status should be delinked completely from religion, as it is in the case of STs thus proposing amending the presidential order of 1950 to include Muslim and Christian Dalits under the category of SCs. Various studies, notably by NCM, have proven the case for inclusion of Dalit Muslims and Christians within the SC category. The government must pursue the public interest litigation (PIL) with regard to extending reservations to Indian Christians being considered by the Supreme Court and include Dalit Muslims in it.
- The civil service, police and armed forces must reflect the diversity of society, especially at the frontline where the state comes in contact with citizens. The government must promote greater minority representation either through affirmative action policies or a strong programme of recruitment and coaching, much stronger than the current support programmes. This must be a time bound action plan.
- Demands for reservations for minorities in jobs and educational institutions must be expeditiously looked at by the Supreme Court and the government in power. The Ranganath Misra report recommends 15 per cent reservation of seats in non-minority educational institutions by law for minorities (10 per cent for Muslims and 5 per cent for other minorities).
- The Election Commission and political parties must proactively address the issue of low minority political representation, especially of Muslims in elected bodies – Parliament and state assemblies. Political parties must put forward more minority members as their candidates; and Parliament must look into the question of delimitation of constituencies to allay fears that they do not prevent minorities from better representation.
- There is need for greater accountability of law enforcement agencies and better rule of law so that the guilty are punished and justice done in cases of mass violence.

- The Parliament must re-examine special laws such as AFSPA and UAPA and their implementation, besides scrutinizing institutions governing them so as to ensure greater accountability of state actors in an effort to prevent systematic violations of human rights.
- Improved design, management and audit of pro-poor programmes ('universal' and 'minority') for excluded minority communities. The 15-Point Programme has been a damp squib. There have been demands for a minority sub-plan. The nub of the demand is better targeting (both who and what) and improved results.
- The National Commission for Minorities (NCM) must act more proactively as a body defending and promoting minority rights. It needs to be made more autonomous and free of government interference for it to act as a true defender of minorities. It should also work across institutions such as the National Human Rights Commission, the National Commission for Women and such like to ensure that minority rights are mainstreamed in those fora too. Need for clear-cut safeguards, and a strong regime of anti-discrimination, undergirds any successful attempt at providing for minorities. India too must give serious consideration to adopting and rolling these out, for any meaningful change.
- A policy decision to include a section of 'SC converted to Buddhists', which will only take count of SCs over 17 per cent and legislation on SCSP/TSP to prevent denial of due share to Dalits and Adivasis.

For civil society:

- Tracking and documenting outcomes as well as processes so as to create a body of evidence to both hold the state accountable and to educate the public on conditions of minorities.
- Greater focus on rights of minorities in their programming through mainstreaming minority rights.
- Public education and advocacy on minority rights including through use of media. This should include moving away from representation of minorities focused on identity issues to those on rights and their denial.
- Creating cross-minority/cross-excluded group platforms for minority and human rights, for solidarities, experience sharing and pro-poor/rights-based advocacy.

- Creating policy and grassroots capacity for minority rights/defenders and activists through documenting, creating awareness, organizing, project implementation and advocacy. This to enable policy changes to be translated in reality on the ground affecting the lives of minorities. The capacity of the grassroots' community is the big missing link in minority rights work and without attention to this element the results on communities will remain but a pipe dream.

For minority communities:

- Working across minorities: creating minority-wide platforms, learning from each other, developing advocacy together on common issues of concern (violence against minorities, minority programmes, minority educational institutions, changes to the 1950 presidential order).
- Developing positions in thematic areas: not all minorities are affected in all domains (violence, socioeconomic rights, culture).
- Community mobilization, developing local leadership/a robust and progressive civil society at the grassroots.
- Ensuring that rights-based approaches also structure intra-community work seeing to it that minorities within minorities are equally protected and their rights defended.
- Connected is the point about developing community led organizations/community based organizations (CLOs/CBOs) of minorities to develop community capacity that have a clear rights base focus and agenda.

References

- Amnesty International India (2013), Briefing: The Armed Forces Special Powers Act: A Renewed Debate in India on Human Rights and National Security. Bangalore: Amnesty International India.
- Amnesty International India (2015), *Denied: Failures in Accountability in Jammu & Kashmir*. Bangalore: Amnesty International India.
- Anderson, Perry (2012), *The Indian Ideology*. New Delhi: Three Essays Collective.
- Anwar, Ali (2000), *Masawat ki Jung*. New Delhi: Indian Social Institute.
- Asian Centre for Human Rights (2015), *The State of the Right to Life in India*. New Delhi: Asian Centre for Human Rights.
- Awaaz- South Asia Watch (2004), *In Bad Faith. British charities and Hindu Extremism*. London: Awaaz Network.

- Bajpai, Rochana (2002), 'Minority Rights in the Indian Constituent Assembly Debates, 1946-49', Queen Elizabeth House, Working Paper Series # 30.
- Barua, Ankur (2015), *Debating 'Conversion' in Hinduism and Christianity*. Routledge.
- Centre for Equity Studies (2011), *Promises to Keep: Investigating Government's response to Sachar Committee Recommendations*. New Delhi: Anhad.
- Centre for Policy Studies (2011), *Scheduled Tribes of India: Religious Demography and representation*. Retrieved from <http://www.cpsindia.org/index.php/pub/261-scheduled-tribes-of-india>.
- Centre for Social Equity and Inclusion (2014), *Making Growth Just and Inclusive: Partnering Community led Organisations of the Marginalized*. New Delhi: CSEI.
- Chandra, Bipan (2001), 'Historical Blunders', *Hindustan Times*, 2 December.
- Chatterji, A., P. Imroz, G. Navlakha, Zahir-ud-din, M. Desai, and K. Parvez (2009), *Buried Evidence. Unknown, Unmarked and Mass Graves in Indian administered Kashmir. A Preliminary Report*. Srinagar:
- Chopra, Surabhi and Prita Jha (eds),(2014), *On their Watch: Mass violence and state apathy in India. Examining the Record*. New Delhi: Three Essays Collective.
- CHRI (2012), *Feudal Forces: Reform Undermined: Failing to move from force to service in South Asian policing*. New Delhi: Commonwealth Human Rights Initiative.
- Christian Dalits: A Research on Christian Dalits in India*, For the Mission Department, ICCO and Kerk in Actie, 2009 add Retrieved from, <http://www.indianet.nl/pdf/christiandalits.pdf>.
- Dayal, John and Shabnam Hashmi (eds), (2015), *365 Days: Democracy and Secularism Under the Modi Regime. A Report*. New Delhi: Anhad.
- Deshpande, Satish (2008), *Dalits in the Muslim and Christian Communities: A Status Report on Current Social Scientific Knowledge*. New Delhi: National Commission for Minorities.
- Deshpande, Satish (2008), *Dalits in the Muslim and Christian Communities: A Status Report on Current Social Scientific Knowledge*. Government of India: National Commissions for Minorities.
- DNA, 'Muslim women writing to Modi to make triple talaq and polygamy illegal'. Retrieved from <http://www.dnaindia.com/mumbai/report-89-muslim-women-want-government-hand-in-codification-of-law-study-2113388>.
- Engineer, Irfan (2012), *Minorities and Human Rights*.
- Evangelical Fellowship of India and Alliance Defending Freedom India (2014), *Hate and Targeted Violence against Christians in India: Report 2014*. New Delhi: Evangelical Fellowship of India and Alliance Defending Freedom India.
- Fazal, Tanweer (2013), *Millenium Development Goals and Muslims of India*. Oxfam India Working Paper Series, January 2013, OIWPS XIII. New Delhi: Oxfam India.
- Fazal, Tanweer (2015), *'Nation-state' and Minority Rights in India: Comparative Perspectives on Muslims and Sikhs identities*. New York: Routledge.
- First Post (2016), 'Tyranny of Gaurakshak: the rise of cow vigilantes under the BJP government', 22 July.

- Frykenberg, Robert Eric (ed.), (2003), *Christians and Missionaries in India: Cross Cultural Communication since 1500*. Routledge.
- Government of India (2006), *Report of Prime Minister's High Level Committee on Social, Economic and Educational status of Muslim Community in India*. New Delhi: Cabinet Secretariat.
- Government of India (2007a), *Report on Conditions of work and promotion of livelihoods in the unorganized sector*. New Delhi: National Commission for Enterprises in the Unorganized Sector.
- Government of India (2007b), *Report of the National Commission for Religious and Linguistic Minorities*. New Delhi: Ministry of Minority Affairs.
- Government of India (2009), *Follow-up action on High Level Committee recommendations*, New Delhi: Ministry of Minority Affairs. Retrieved from <http://www.iosworld.org/download/Recommendationwise-sachar.pdf>.
- Government of India (2011), *India Human Development Report 2011: Towards Social Inclusion*. New Delhi: Institute of Applied Manpower Research.
- Government of India (2013), *Report of the Standing Committee of National Monitoring Committee of Minorities' Education*. New Delhi: Ministry of Human Resource Development.
- Government of India (2014a), *Post Sachar Evaluation Committee*. New Delhi: Ministry of Minority Affairs.
- Government of India (2014b), *Report of the Assessment and Monitoring Authority*. Tabled in the meeting of 1 April 2014. New Delhi: AMA.
- Habib, Irfan, Suvira Jaiswal, and Aditya Mukherjee (2003), *History in the New NCERT Textbooks: A Report and an Index of Errors*. Kolkata: Indian History Congress.
- Hasan, Mushirul (2004). *Will secular India Survive*. New Delhi: Imprint One.
- Hassan, Sajjad (2015), Book Review of Surabhi Chopra and Prita Jha (eds), 2014. 'On Their Watch: Mass Violence and State Apathy in India, Examining the Record', *Social Change*, 45(3) 491–515 © Council for Social Development, 2015.
- Hassan, Sajjad (2016), 'Survivors of mass communal violence in Muzaffarnagar: Profiles of loss, dispossession, and recovery', *India Exclusion Report, 2015*. New Delhi: Yoda Press.
- Human Rights Watch (2008), *These fellows must be eliminated*. Relentless violence and Impunity in Manipur. New York: Human Rights Watch.
- Human Rights Watch (2011), *Anti-Nationals: Arbitrary Detention and Torture of Terrorism Suspects in India*. New York: Human Rights Watch.
- Human Rights Watch (2015), *India Country Summary*, January 2015. New York: Human Rights Watch.
- India Today (2014), 'Supreme Court gives adoption rights to Muslims', 20 February.
- India Today (2016), 'India Today expose: How Gau Rakshaks turn into extortion mafias', 8 August.
- International People's Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK).

- IPTK and APDP (2015), 'Structures of violence: The Indian State in Jammu & Kashmir. Srinagar: The International Peoples' Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK) and the Association of Parents of Disappeared Persons (APDP).
- Jaffrelot, Chris (ed.), (2007), *Hindu Nationalism. A Reader*. Princeton: Princeton University Press.
- Jaffrelot, C., V. Dutoya, R. Kanchana, and G. Rathore (2009), 'Understanding Muslim Voter behavior', *Seminar*, 602.
- Jamia Teachers Solidarity Association (2012), *Framed, Damned, Acquitted: Dossiers of a 'very' Special Cell*. New Delhi: Jamia Teachers' Solidarity Association.
- Khanam, Azra (2013), *Muslim Backward Classes: A Sociological Perspective*, New Delhi: Sage.
- Legal Service India (2011), 'The right to freedom of religion vs religious conversion'. Retrieved from http://www.legalserviceindia.com/articles/rel_rel.htm.
- Livemint (2014), 'Minorities better represented in the Indian parliament than in US', 18 June. Retrieved from <http://www.livemint.com/Opinion/bKRhH5ST4fMV7TvcBRMVxO/Minorities-better-represented-in-the-Indian-parliament-than.html>.
- Luithui, Ningam and Nandita Haksar (1984), *Nagaland Files: A case of Human Rights*. New Delhi: Lancer Publishers.
- Naqvi, Farah (2015). 'Kiska Saath, Kiska Vikaas', *Seminar*, 665.
- Nariman, F.S. (2014), 'Minorities at the Crossroads: Comments on Judicial pronouncements', *Economic and Political Weekly*, XLIX (46).
- NCRB (2015), *Prison Statistics India 2014*. New Delhi: National Crime Records Bureau.
- NSSO (2011), Key indicators of employment and unemployment in India 2009-2010, NSS 66th Round.
- NSSO (2013), Key indicators of employment and unemployment in India 2011-1.
- Osuri, Goldie (2013a), 'India First, and the BJP anti-conversion platform', *Kafila*, 12 October. Retrieved from <https://kafila.org/2013/10/12/india-first-and-the-bjp-anti-conversion-platform-goldie-osuri/>.
- Osuri, Goldie (2013b), *Religious Freedom in India: Sovereignty and (Anti) Conversion*. New Delhi: Routledge.
- Puniyani, Ram (2015), 'Words secularism and socialism missing in Constitution's Preamble: Attempt to Undermine Secularism, Testing waters?' *Countercurrents*, 31 January.
- Puthumattathil, A., M. Minj, R. Abraham, S. Tirkey, D. Turi, and J. Marandi. (2015), *Impoverished Adivasis Hunted as Criminals: A Study of Jharkhandis Alleged as Naxalites*. Ranchi: Baghaicha.
- Raghavan, V. and R. Nair (2011), *A Study of the SocioEconomic Profile and Rehabilitation Needs of Muslim Community in Prisons in Maharashtra*. Mumbai: Tata Institute of Social Sciences.
- Rahman, S. Ubaidur (2002), 'Minorities Commission Should be disbanded', *Milli Gazette*, 1 June. Retrieved from <http://www.milligazette.com/Archives/01062002/0106200248.htm>.

- Rajeshwari. B. (2004), 'Communal Riots in India: A chronology (1947-2003)', IPCS Research Paper No. 3. Institute of Peace and Conflict Studies.
- Robinson, Rowena (ed.), (2012), *Minority Studies*. New Delhi: Oxford University Press.
- Russell, R.V. and Hira Lal (1916), *The Tribes and Castes of the Central Provinces of India*. London: Macmillan and Co.
- SAHRDC (2015), 'Gujarat's Anti-terrorism Bill: Another Building Block in the Edifice of Authoritarianism', *Economic and Political Weekly*, L (16): 12-14.
- Samiuddin, Abida and R, Khanam (2008), *Global Encyclopaedic Ethnography of Indian Muslim*, Vol. 2. New Delhi: Global Vision Publishing House.
- Sethi, Manisha (2014), *Kafkaland: Prejudice, law and counterterrorism in India*. New Delhi: Three Essays Collective.
- Singh, Pritam (2005), 'Hindu bias in India's "secular" constitution: Probing flaws in the Instruments of Governance', *Third World Quarterly*, 26 (6): 909-926.
- Singh, Pukhraj (2012), 'A day in the Life of a Sikh Prejudice: Pukhraj Singh', *Kafila*, 29 December. Retrieved from <http://kafila.org/2012/12/29/a-day-in-the-life-of-asikh-prejudice-pukhraj-singh>.
- Srinivasan, Meera (2011), 'Beyond Caste: Connecting with the Dalit Buddhist Community'. Lion's Roar. Retrieved from <http://www.lionsroar.com/beyond-caste-connecting-with-the-dalit-buddhist-community/>.
- Srivastava, V.K. (2013), 'Failure of National Integration Council: the failure dear Brutus, lies in Ourselves', *Countercurrents*, 26 September. Retrieved from <http://www.countercurrents.org/srivastava260913.htm>.
- Thapar, Romila (2001), 'Propaganda as History won't sell', *Hindustan Times*, 9 December.
- The Hindu* (2015), 'Secularism and the Constitution', 30 November.
- The Hindustan Times*, (2005), 'Muslim women's group writes to PM, demands reform in personal law', 27 November, Jaipur
- The Hindustan Times* (2015), 'Dalit Catholics continue to battle upper caste aggression', 2 August. Retrieved from <http://www.hindustantimes.com/india/dalit-catholics-continue-to-battle-upper-caste-aggression/story-6Cmvp1X3GT74iddi4qQLUJ.html>.
- The Indian Express* (2015), 'Data on Muslims in Police will no longer be Public', 30 November.
- The Indian Express* (2016), 'Manipur probe: Indefinite AFSPA is failure of Army, Govt. Says SC', 11 July.
- The Times of India* (2012), 'Sikh, Muslim NGOs receive least foreign funding'.
- The Times of India* (2015a), 'Corporate India remain stuck in 1920s with Muslim representation, even as it unfurls global ambitions. Times of India', 27 September. Retrieved from <http://blogs.timesofindia.indiatimes.com/minorityview/corporate-india-remain-stuck-in-the-1920s-with-muslim-representation-even-as-it-unfurls-its-global-ambitions/>.
- The Times of India* (2015b), 'Surya Namaskar made compulsory in 48,000 Rajasthan schools', 4 February. Retrieved from <http://timesofindia.indiatimes.com/india/Surya-namaskar-made-compulsory-in-48000-schools-Rajasthan/articleshow/46114163.cms>

The Times of India (2015c), 'Bihar Election Result 2015. More Muslim Legislators this time in Assembly', 10 November. Retrieved from <http://timesofindia.indiatimes.com/elections/bihar-elections-2015/news/Bihar-election-results-2015-More-Muslim-legislators-this-time-in-assembly/articleshow/49730446.cms>.

The Wire (2016), 'The government has a duty to protect the minority character of Aligarh Muslim University', 17 January.

Thorat, Amit (2013), *Religious communities in India: A Development profile. Religions and Development, India*. Working Paper Series Volume 02, Number 01. New Delhi: Indian institute of Dalit Studies, and Religions and Development Research Programme.

US State Department (2014), *International Religious Freedom Report – India*. US State Department.

Yasmin, Shahana (2016), 'Some Religious Organisations Are against Jaipur's Female Qazis, Only Because They're Female', 10 February. Retrieved from <http://www.vagabomb.com/Some-Religious-Organisations-Are-against-Jaipurs-Female-Qazis-Only-Because-Theyre-Female/:Can>.