

Extended Book Review

Exclusion of Minorities in South Asia: Denial, Deprivation and Discrimination

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In his commentary on the Greek political thought, C.L. Wayper quoted Confucius saying: 'Where the Prince is virtuous laws are unnecessary, where the Prince is not virtuous laws are useless.' (1987: 27). In today's terms, it can be referred to the endorsement of the 'rule of law' and constitutionalism, which constitute the bedrocks of democratic governance, particularly in a plural society like India where diversities are continental in nature. The 'rule of law' was considered inevitable for the unity and integrity of the country by thwarting the menace of 'preferred interests' of different communities for avoiding conflicts and controversies. Its supremacy is a decisive factor in legitimising democratic governance. It is a fact that the biased and partisan role of the enforcement agencies and its institutionalisation breed hatred, violence, riots and discriminations on the one hand and the rise of fascist-terrorist forces, on the other.

It was in this context, the Framers¹ of the Constitution of the Republic of India, 1950, played the role of a trustee in underlining certain principles which were later declared by the Supreme Court as the 'Basic Structures of the Constitution'.² Such measures by the Framers and the Supreme Court were primarily meant for providing guidelines to the political actors, parties and the policy makers to keep the country united and integrated by its own internal means and sources. This Nehru-Gandhian project of building a federal India was based on converting the confidence of people of different communities into structures of powers and on developing a political culture conducive to 'civic democracy' and

not 'ethnic democracy'. This paradigm was considered as the most pragmatic, consensual and long-term national project for 'state building' in which not only political parties but governmental agencies from top to bottom were also supposed to endorse the primacy of the 'rule of law' over their allegiances and affiliations.

The purpose of political leadership soon after Independence in August 1947 was to transform India into an Asian model of democracy for managing a big 'cultural-ethnic museum' by endorsing pluralism. Over the years, the rise of fascist forces at the State and the Union/Central levels particularly since the 1980s perverted the political culture of the country, which created amateurishness, ignorance, *stasis*, internal conflicts and decline in India's international image. India is no more a voice of protest or conscience against occupation, war crimes, exploitation, humanitarian interventions and proliferation. It was a power of conscience and India's leadership that many Afro-Asian countries were looking at it as its future leader.

Today, India is known for overlooking the Nehruvian legacy to conform to political realism in international relations. At the domestic level, our social unity is fractured by the thinking and actions of some political actors, which brew hatred against minorities, caste violence, communal riots, discriminations, unrests in many areas and series of bomb blasts/terrorism (Khan 2010: 25-52). Fascist parties and organisations have strengthened themselves over and above the 'sovereign state', and thus downplayed the constitutional principles

for their own parochial interests.³ Perhaps, I would call the period beginning with the late 1980s as the beginning of the most dangerous phase of transition in Indian polity. Despite the formation of coalition governments, institutions and processes of governance at various levels, including intelligence and media kiosks, are getting highly infected with fascist forces.

It is mandatory in the European Union framework and in the UN framework to ban such political organisations, which resort to acts of violence, inciting for violence, promoting hatred and becoming a menace to the constitutional order. They misused the package of democratic liberties for advancing their own vicious agenda of violence, hatred and communal divide and accordingly influenced various structures of powers. Their activists and products have entered the multiple layers of governmental agencies, which can be easily seen in the role of several political actors, police, para-military forces, intelligence agencies and administration. Moreover, certain sections of the judiciary are also not immune from their influences. Democracy also requires the judiciary to be vigilant, rational, assertive, impartial and independent of any kind of influence, so that citizens can get justice according to the law. Judiciary is an institutional watch tower above key institutions and political actors. The judiciary's role becomes more important in plural societies where minorities fear majoritarian dominance or its undue influence in public spheres (Khan 2010: 6-10). India is not only known for being the largest democracy in the world but also for its failure to accommodate its diversities, and in some cases for denying and depriving people of their nationality either through disenfranchisement or by denouncing their nationality rights on various grounds in a particular socio-cultural and psychological context, resulting in the process of exclusion and fear in the minds of being a doubtful identity.⁴

The case of the state of Assam is also known for the issue of deprivation of the Muslim community to a large extent on the pretext of being illegal residents and unwanted refugees. People of a particular nationality—Bengali-speaking Muslim community in the state of Assam that happens to be one of the minority communities in the country—are labelled outsiders, foreigners, infiltrators, illegal residents, refugees, anti-nationals, etc., by some

political groups and the Hindu-dominated press and governmental agencies (both at the federal and the state levels) affecting the behavioural patterns of the police and the district administration *vis-a-vis* the Bangla-speaking minority community. This is now resulting in institutionalising the process of discriminations affecting citizenship rights in the country. On the contrary, the Bengali-speaking Hindu community in the same area is treated well.

India is a plural society comprising several religious communities, languages and ethnic groups. India's diversities are as vast as a continent (Khan 1992; 1994). Since India did not pass through the similar phase of European Renaissance and political revolutions, the societal panorama remained highly historical in nature. Such attributes and ascriptive features are the constituent elements of various segments of the Indian society. Unlike the Swiss, French and German criteria for identifying different nationalities or groups (based on linguistic factor), religion is the most powerful factor in recognising the divide between the majority and minority and differentiations among various groups. The Constitution of India and other institutions have already endorsed this reality.

Religion has played a unique role in India in terms of its freedom movement, bargaining against the British colonial masters, tragic partition in 1947 and in the post-partition era. Religion has certainly been the pillars of joint and coordinated experiments of living together for centuries; but, in some cases, few militant and anti-Constitutional forces have misused it as a tool for their own interests. Having this background, the Framers of the Constitution, who debated each and every provision of the world's longest democratic Constitution for ~3 years in the Constituent Assembly of India (CAI) finally decided to underline the basic tenets as guiding principles for governance. These guiding principles are the Parliamentary system, Union-dominated federal system, detailed Fundamental Rights, social and economic considerations known as Directive Principles and equal respect for every religion principle known as secularism. The CAI adopted the Objectives Resolution in 1946, which sought to ensure justice, equality, freedom in addition to a call for adequate safeguards for minorities, depressed and 'backward' classes, and underdeveloped

and tribal areas (CADOR 1999: 59). The Constitution has not only upheld the long secular tradition in which people of many faiths have lived together in harmony but has also made special provisions to protect the educational and cultural rights of all minorities, religious and linguistic (Basu 1989).

Articles 29 and 30 of the Constitution guarantee the rights of the minorities to conserve the language, script and culture and to establish and administer education institutions of their choice whether based on religion or on language (GOI 2007: 72). The Constitution of India uses the word 'minority' or its plural form in some Articles—29, 30, 350A and 350B, but does not define it anywhere. Article 29 has the word 'minorities' in its marginal heading, but speaks of any sections of citizens having a distinct language, script or culture. This may be a whole community generally seen as a minority or a group within a majority community. Article 30 speaks specifically of two categories of minorities—religious and linguistic. Articles 350A and 350B relate only to linguistic minorities. All those who profess a religion other than Hinduism are considered minorities. Officially, 82 per cent of the population of the country are Hindus while Muslims (13.4 per cent) are the largest minority. The rest are divided into six other minorities.

Rights for minorities are also enshrined in Articles 15 and 16, which prohibit the government from making any discrimination on the grounds only of religion, race, caste, sex, descent place of birth, residence or any of them either generally, i.e., every kind of state action in relation to citizens or in matters relating to employment or appointment to any office under the state. In order to promote relative equality, the Constitution permits positive discrimination in favour of the weaker classes or communities, the disadvantaged and the backward sections of society on the basis of economic, social and educational backwardness. They are in the field of education, employment, promotion, loan, grants, housing, elected bodies and in other developmental areas. It speaks of affirmative action policies with reason but prohibits them without reason. Other constitutional safeguards are provided in Part III of the Constitution for the freedom of conscience, profession, religion, language, etc. The Protection of Civil Rights Act, 1955 [Formerly known as Untouchability (Offences) Act, 1955] and the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have been enacted by the Union Government to protect persons belonging to scheduled castes and scheduled tribes from untouchability, discrimination, humiliation, etc. No legislation of a similar nature exists for minorities. Similarly, provisions for positive discrimination have so far been crafted to benefit almost all persons belonging to the majority community (Ali and Khan 2008:172-226).

In pursuit of the well-being and protection of the minorities, social justice and secularism require special mention in a polity where the majority community can easily exercise its majoritarian power in the absence of any political safeguards like veto powers, separate electorate or proportional system. Social justice requires that fundamental human rights of the members of all communities are protected by the state. To promote inter-faith harmony and secular ethos in all parts of the country, central and state governments from time to time encourage training for the police, armed forces, administrators and other functionaries, to sensitise them to relevant issues. Secularism can best be implemented when people are committed to principles of equality, social justice and respect for diversities. Indian secularism emphasises absolute and unconditional equality of all religious faiths in the country. Other than the literal inscriptions of secularism, both the Union and State Governments have worked for creating very few institutions on the grounds of protecting minorities. The Union Government first constituted a non-statutory Minorities Commission in 1978, which became statutory in 1992 as the National Commission on Minorities assigned with various tasks related to the protection of citizenship rights of minorities.

The National Commission for Minority Educational Institutions Act, 2004, was established to constitute a Commission charged with the responsibilities of advising the Central Government or any State Government on any matter relating to the education of minorities that may be referred to it, looking into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice, deciding on any dispute relating to affiliation to a scheduled University and reporting its findings to the Central Government for implementation. The Act was

extensively amended in 2006 (Act 18 of 2006), *interalia*, empowering the Commission to enquire *suo motu* or on a petition presented to it by any minority educational institution (or any persons on its behalf) into complaints regarding deprivation or violation of rights of minorities to establish and administer an educational institution of its choice and any dispute relating to affiliation to a University and report its finding to the appropriate government for its implementation (GOI 2007: 9).

On the question of linguistic minorities, if the country is considered a unit, all who speak a language other than Hindi can be treated as linguistic minorities, but not so if the state is considered the unit. Within a state, there may be minorities who speak a language or languages other than the language spoken by the majority in that state. Part XVII of the Constitution is devoted to the 'official language'. Chapter I of Part XVII, comprising articles 343 and 344, deals with the official language of the Union. Chapter II deals with regional languages. Article 350A of the Constitution provides that 'it shall be the endeavour of every State and every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such direction to any State as he considers necessary or proper for securing the provision of such facility.'

Article 350A directs every state to provide facilities for education at the primary stage in the language of a linguistic minority for children belonging to such a community. Read with Article 45, Article 350A provides an important policy direction to the state for preservation of the language of linguistic minorities. Article 350B provides for appointment of a Special Officer for linguistic minorities by the President. It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution and report to the President upon those matters at such intervals as the President may direct. All such reports are required to be laid before each house of the Parliament, and also sent to the Governments of States concerned.

Above all, it is more important to mention that the Constitution of India created an independent judiciary

not only to look into the misappropriation of constitutional powers by the Parliament but also to ensure constitutionalism and protection of foundational values and principles enshrined in the Constitution. However, it is the task and responsibility of the judiciary to question the denial and violation of the rights of minorities. It is important to note the fact that it has preferred to ignore and overlook most of the problems of the minorities, particularly those of Muslims in cases like preparations for engineering anti-Muslim violence, occurrence of anti-Muslim violence and post-violence cases like rehabilitations, protection, safety and delivery of justice. There are only a few exceptions where the judiciary has shown its constitutional vigilance in nine major cases of the Gujarat genocide. The judiciary did not prevent those famous political actors who were instrumental in genocide from coming back to power. Therefore, it is not a serious matter before it if the Fundamental Rights of the Muslim community are violated like high-way robbery. It has so far left the onus of the executive agencies and maintained the attitude of benign neglect.

In its study on the socioeconomic status and other related issues of minorities, in twenty-eight states visited, the NCRLM found that Muslims are behind other religious communities in areas of literacy and education, industrial promotion and economic pursuits. They lack technical and vocational education, as well as training in trades in demand. The villages, *tehsils* and districts having a concentration of Muslim community many a time lack entrepreneurial ventures and markets for their products. The Muslims have not been able to avail the facilities of *Waqf* (religious endowment) resources in the absence of proper management. The work participation rate among Muslim women has been found to be low, thus affecting the quality of their life (GOI 2007: 28). In its other observations, it found that among Muslims, they have a lower literacy where they are predominantly located, except in Kerala. The literacy rate is less among Muslims (59.1 per cent). The female literacy rate is also very low among Muslims. It has been noticed that there has been a sharp decline in the number of students from the primary school stage to the secondary level among Muslims, indicating a higher dropout rate among them. Infant and child mortality rates among Muslims are highest in so far as minorities are concerned. Among minorities, about

one-third Muslims are living in *kutcha* (not cemented) houses, which lack basic facilities like drinking water, toilet, etc., and likewise they live in rented houses (GOI 2007: 29-30).

The NCRLM also recommended reservation of jobs for Muslims and other minorities for their well-being. The federal polity ensuring the rights of the vulnerable communities is now under threat due to the increase of fascist elements in various spheres. No preferential treatments are given to Muslims who are over 14 per cent of India's total population. They have been declared backward and very backward by at least three commissions set up by the Government of India—Dr. Gopal Singh Committee (1983), Justice Sachar Committee (2006) and Justice Ranganath Commission (2007). The majority of Muslims in India are poor, very poor and vulnerable. Preferential treatments exist for several weaker segments of the Hindu community. Today, the majority of Muslims are excluded from the structures of powers. The rate of unemployment, illiteracy, poverty, housing problem, etc., is higher on the part of Muslims (Biswas 2007). It requires constitutional and policy measures on the part of the national and sub-national governments.

Modern-looking secular, federal and democratic arrangements of institutions were endorsed and adopted to transform the 'communal' nature of society into a 'civic' society. Secularism was meant for maintaining a peaceful co-existence, and federal democracy was meant for upholding substantive equality and social justice against discriminations, exploitations, poverty, backwardness, special birth rights (caste system), deprivations on the basis of religion, colour and creed and exclusion. In this context, one can find three major sets of questions that India had to address after it became independent in 1947. They were federal units sharing of power (related to the powers and autonomy of sub-national governments), casteism (caste conflicts and caste-based inequalities) and communalism (community-based fear of insecurity, discrimination and backwardness due to the representation and force of numbers/majority community). The above two have been addressed systematically without a similar sensitivity to the problem of communalism. Therefore, majority communalism got strengthened due to a lack of checks and balances at the

level of the organisation, principles and guidelines for political parties, distribution of party tickets for contesting elections, employment in government sectors, enforcement agencies, delivery of goods and in the sphere of the 'rule of law'.

The consolidation of communal forces in power politics including some other civic institutions established three disturbing trends in the country. First, anti-Muslim violence (usually called communal riots) became a permanent feature of power politics since 1947 and more rabid after the Ninth General elections of 1989, when a small political party increased its strength in the Parliament from 2 to 88. On the other hand, anti-Christian violence started as a new phenomenon since the late 1990s with planned and coordinated attacks on churches, priests and their followers. Second, at many places, the enforcement agencies became habitual in overlooking lawlessness which resulted in a kind of giving a free hand to the attackers and organisers of crimes against peace and law of the land. It is important to mention here that timely reporting and warnings by local and domestic intelligence agencies, which are supposed to know the depots of weapons, training grounds, publication of heinous literatures and hate speeches, could have controlled violence in many places as most of the violence appeared as organised crimes against humanity. The tradition of setting up inquiry committees is quite strong, but actions and implementation of their suggestions have not yet set precedents.

The call to protect diversities, signed by prominent citizens in the country⁵, noted that: 'Recent political developments in India are dominated by the tragic and systematic suppression of various groups. Linguistic and religious minorities, various regional identities, the scheduled castes and scheduled tribes and the other backward classes constitute these suppressed groups'. It goes on to further point out that these suppressed groups constitute the majority and 'encompass within themselves the overwhelming majority of the property-less, labouring masses of India'. These groups are manipulated by 'the power brokers of the dominating minority' through the insidious use of casteism, communalism and linguistic and regional chauvinism. It was believed that Muslims had lost their voice since the partition. They had lost out economically, with erosion of the middle class,

pauperisation of the artisans and the peasantry, as well as riots in those areas where they had achieved a relative degree of economic stability.

Speakers pointed to the poor representation in government and administrative services as evidence of the discrimination that exists against Muslims. Another dimension of the onslaught on the Muslims in India has been on questions and issues like the Muslim Personal Law, Urdu language and the move to usurp places of worship. These have been further attempts to destroy the identity of Muslims in India. The distorted image of the community in the press and other media was also emphasised. One aspect of the present situation was the decline of liberal elements in the majority community and in government, administration, media and political parties, which had further isolated the Muslims in India. It was also pointed out that the principal fact of the Muslim situation in India was that they were faced with annihilation. To emphasise this, one speaker gave examples of large-scale riots in areas like Assam, where Muslims were among the most wretched (Raman 1987: 174-5).

The other divide that people have been analysing for a long time, particularly sociologists and social anthropologists, has been of the ethnic, communal and caste variety between the dominant castes and communities on the one hand and the lower castes, the backward classes and the *Dalits* (untouchables/impure) on the other. It is only recently that yet another division is being discussed, and which has often been deliberately evoked more by the ruling strata than by the people. This division is along religious lines. It is a division that was always noticed by observers as part of the cultural terrain, but was never considered a very central part of the political process. Today, it is being invoked as that. We are told that the country stands divided because of resurgence and revival of religious identities, and that something should be done to halt this process of division across communal and religious lines (Kothari 1988: 2589).

Referring to two Indias, Rajni Kothari looked into a kind of division between those with access to power, privilege, resources and positions and the rest who do not have access to these positions and privileges, who are left out

of the dominant techno-economic model around which the modern state is sought to be steered. These people can be the poor, the untouchables, the tribals, the backward classes, the lower castes and also the large sections of religious minorities (Kothari 1988: 2589). Atrocities committed on women, for instance, will cut across classes and yet there is a sort of gender divide: a very powerful gender divide, which is becoming part of the larger scenario of two Indias. If you look at the position of the tribals, who are being isolated and marginalised, and whose lifestyles and natural resource base is being destroyed, they may not necessarily qualify to be called the very poor, and yet they are at the receiving end of state policy and political process. The same would apply to some of the religious minorities.

In the case of Muslims, while it is clear that a large majority of them happen to be very poor, even those who are not very poor and belong to certain middle classes, and particularly those among them who are slightly moving up economically, become targets of communal frenzy and violence. In fact, the latter become the targets of attack even more than masses of the poor. Yet there is also no doubt that state policies that have built an elite structure based on certain classes that dominate the country impinge on the minorities of the ethnic and religious kind. In other words, if you think in terms of the targets of what may be called Hindu chauvinist psychology that is emerging in India, largely located in North India but also found in places like Gujarat and Maharashtra, these targets happen to cut across the *Dalits*, the tribals, the Muslims and other religious minorities. It would look as if they were all part of the same mass of people who 'are undermining the unity of the country, who happen to be responsible for the unmanageable diversity that we have to deal with, and who are standing in the way of the country moving ahead as a homogeneous, powerful, strong and technologically advanced state.' (Kothari 1988: 2589).

The more recent failure of the Indian democracy is a result of an increasingly declining understanding of this, of the failure to grasp the real issues faced by people, to respond to their diverse demands in a democratic manner. It is a failure to recognise the simple fact that this is fundamentally a federal society, not just a federal polity, and that to build a democratic polity in a federal society

it is necessary to not just recognise the existence of diversities but to also make them the bases of a rich and powerful texture of unity and integrity (Kothari 1988: 2590-1). The introduction of modern political structures and modern market systems began to transform the historical pattern of relationships. It did not dismantle identities based on ascriptive characteristics, but rather established a strong bond between dominant identities and modern polity. On the contrary, liberal democracy was a revolutionary package against this unholy alliance, which has developed in this country. Such an alliance can be traced in the rise and perpetuation of those political forces that have strengthened their foundations in the roots of caste and communal consciousness. Nirja says: 'The superimposition of democracy on these structures was expected to dissolve older ascriptive identities, and create in their stead the new overarching identity of the Indian citizen, equal before law and equal in political voice.' (Joyal 2001: 24).

The Indian Establishment, from the Union to the block levels, has failed to be an impartial institution in ethnic conflicts or inter-religious feuds. Nandy says that all too frequently, the ruling party, the bureaucracy and to an extent the judiciary get involved in ethnic violence as partisans, a hazard common to states the world over. These factions also, reluctantly but surely, try to take political advantage of such involvement (Nandy 1989: 10). Therefore, consolidation of an alliance of modern power structures with the difference-based country of communities provided an opportunity for the strong and the majority community to exploit the sources of modern political authority, particularly in the absence of any safeguards or precautionary measures to ensure equality and justice for the minorities. The Sachar Committee Report (http://minorityaffairs.gov.in/newsite/sachar/sachar_comm.pdf) clearly states the presence of compound prejudices against the minority, which are mentioned in pages 11 to 25 and 144. Remarks of the Committee are displayed on several issues related to communal considerations in identity, education, language, employment, health facilities, loans, basic amenities and political participation. The main purpose is to substantiate the argument mentioned above, which constitutes the basis of discrimination.

It is also amazing to note that in most of the states of India where Muslims are above 15 per cent of the total population, they are more backward in social, educational and economic spheres severely affecting their participation in public life. About 60 per cent of the total Muslim population of the country live in the states of Assam, West Bengal, Bihar, Jharkhand and Uttar Pradesh where they stand almost excluded from public life. They share the highest number in the line below poverty. It is not only the Congress but also the non-Congress governments which maintained the policy of discrimination against Muslims. The Congress party made empty promises to form its government, whereas the *Hindutva* forces created anti-Muslim hatred and more crude discriminations. On the other hand, the regional parties practiced soft-pedalled discriminations.

It is also interesting to note that Muslims who preferred to live in India have so far maintained its historic legacy unless and until forced to do so particularly in the case of West Bengal. Muslims in India have so far not opted to migrate to their kin countries like Pakistan or Bangladesh, whereas millions of Hindus have been entering India from Bangladesh on various pretexts. On the contrary, the media, intelligence agencies and the government have continued to project the case of migration as the influx of Bangla-speaking Muslims from Bangladesh. It is like the Hindu Kashmiri migrants who get more benefits and protection than the Muslim Kashmiri residents in the Valley and in Jammu areas. Such discriminations based on religious factor are realities. It is like the Gujarat government announcing two different compensation amounts for dead persons belonging to two different communities.

On 21 December 2011, the Delhi High Court stayed the deportation of 151 Pakistani Hindus who had sought Indian citizenship, or at least asylum, on the ground that being minorities they were facing threats to their lives back home. The Pakistani nationals came to India on September 7 on pilgrimage visas, but did not want to go back. 'Our lives are in grave danger in Pakistan,' they pleaded in the PIL filed by Rakesh Ranjan, General Secretary of the Akhil Bharat Hindu Mahasabha. At present, all of them are staying in Delhi. After hearing the arguments, the High Court stayed their deportation

until disposal of their petition. The Hindus have also submitted memoranda to the President, the Prime Minister and the National Human Rights Commission, pleading that they be allowed to stay back in India (<http://www.tribuneindia.com/2011/20111222/main4.htm>).

If any one looks at the number anti-Muslim violence (generally called communal riots) since India's Independence, involvement of terror groups belonging to the *Sangh Parivar*, anti-Muslim hatred campaign not only at the level of the *Sangh* outfits but also at the level of the *Sangh*-sponsored political party (Bhartiya Janta Party), misuse of Hindu faith and exploitation of their religious and cultural sentiments by the BJP and the *Sangh* outfits since 1988 centring on creating hatred against the Muslim community in the country, demolition of the historic Babri Mosque in 1992 by them, their involvement in numerous bomb blasts in the last one decade, fake encounters, fake arrests of the members of the Muslim community on fabricated terror charges, involvement of government officials in ignoring the violation of the constitutional rights of the Muslim community be it violence against the Muslims or fabricating terror cases against them, etc., it will be reasonable to identify the emerging nature and purpose of the enforcement agencies. By 2006, the Rashtriya Swayamsevak Sangh (RSS) reached all revenue *mandals* in the country and the number of *Shakhas* was 45,960 in 2003.

It is also a fact in India that most of the cases of violation of the rights of the Muslim community are either shelved or if taken to the court or the inquiry commission, it takes two decades to surface with some findings and then the chapter ends. There is no history of penalisation either to terror groups or to party officials or persons belonging to the governmental machinery. There are only cases of rare exceptions. This makes the real character of India's political culture and the nature of both elected and appointed executive actors, which clearly defy the purpose of democracy, representation, constitutional rights, peace and development *vis-à-vis* the Muslim community.

In sharp contrast to education and employment, wherein their share is way below their share of the population, Muslims have a disproportionately high representation when it comes to being in prison. In fact, in many states,

Muslims even make up a higher percentage of the population in jail than they do outside. This statistic, a key finding of the Prime Minister-appointed Justice Rajinder Sachar committee—which is looking into the status of Muslims nationwide—has major social and political implications. Such a high figure of incarceration, experts say, means further marginalisation of the community, deepening prejudice and distrust (Chishti 2006).

While there is no break-up of the nature of the crime for which these inmates have been imprisoned, sources say that the total number of inmates surveyed is 102,652 and that a majority of them are not in prison for terrorism. A dozen states with significant Muslim population shares were asked to furnish statistics on the number of Muslims in prison, those convicted and under trial. West Bengal, Uttar Pradesh, Bihar and Andhra Pradesh have not reported back to the committee on this; hence, the data available are only for eight states that did. Incidentally, West Bengal, UP and Bihar, as was first reported in The Indian Express in October 2006, rank at the bottom when it comes to representation of Muslims in government employment, including state public sector undertakings and lower judiciary. Data accessed by The Sunday Express show that when it comes to Muslims in the prison population, Maharashtra, Gujarat and Kerala are the most disproportionate (Chishti 2006).

In Maharashtra, the percentage of Muslim jail inmates in all categories (see chart) is way above their share in the population (Muslim share in population is 10.6 per cent, share in the total prison inmates is 32.4 per cent). When it comes to those in prison for less than a year, Muslims contribute 40.6 per cent of all prisoners in Maharashtra. In Gujarat, the percentage of Muslims in the state is just 9.06 per cent, but they make up over a quarter of all jail inmates. Assam, the second highest Muslim-populated state in the country, after J&K, has 30.9 per cent Muslims, and here, the percentage of Muslim jail inmates is 28.1 per cent. Even Karnataka, which did relatively better than did the other states in providing jobs to Muslims, shows the same trend, 17.5 per cent of its jail inmates are Muslim as compared with 12.23 per cent of its population (Chishti 2006).

According to the Sachar committee findings, the poverty level in Muslims in urban areas is as high as 44 per cent compared with the national figure of 28 per cent. The former bureaucrat and now Chief Information Commissioner Wajahat Habibullah said: 'The higher numbers of Muslims in jails is also a reflection of the fact that Muslims are poorer generally and are more likely to get picked on by the police because they are easy prey due to fewer entitlements. Prejudice against them also exists but gets compounded because of their poverty.' For former Member of Parliament Syed Shahabuddin, who is also the President of the Muslim organisation Majlis-e-Mushawarat, there is a parallel here between Muslims in India and African Americans in the United States. He said that Muslims are very well-represented in marginal professions, like cinema and the media, and also in goonda-gardi, as they have no openings in formal jobs. Shahabuddin also attributed the high Muslim prison figures to what he calls bias in the police and the inaccessibility to legal aid. 'The belief that Muslims are terrorists is only a product of the anti-Muslim bias the police have. If Muslims are involved, they pick up ten in place of one. Invariably, they make arrests when not necessary, and eventually, they cannot prove the cases.' (Chishti 2006).

This fact cannot be overlooked for long as any attempt to cover it up more would further complicate the process of reforms and levelling. Highly sophisticated type of exclusion of the Muslim minority community in the country and more in the state of West Bengal is both institutional and operational realities reflected in police, administration, para-military forces, all branches of defence, banks, post and telegraph, state-owned and federal government-owned sectors and non-governmental sectors. Other minorities have sometimes got more space in public affairs, but the Muslim community stands on the fringe. This phenomenon of exclusion (deliberate and systematic) negates the very purpose of democracy and the notion of Fundamental Rights, which cannot be realised due to the absence of the enabling factors.

It seems to be difficult to agree with **Abhijit Dasgupta**, **Masahiko Togawa** and **Abul Barkat**, who have said in the edited book—*Minorities and the State: Changing Social and Political Landscape of Bengal* (Sage: New Delhi, 2011) that '(A)fter six decades of independence,

inter-community relations still remain an important political agenda in both West Bengal and Bangladesh' (p. xvi). The two minorities in both parts have quite different socioeconomic and educational statuses. The Hindu minority community has strong organisational capacities and agencies both within and outside Bangladesh, whereas the Muslim minority community has no parallel set-ups. The former can afford to move out of the country and settle in its kin country India, whereas the latter cannot afford to move or manage to settle outside the country. Even their movement outside the state created panic in the country a decade ago when some of them were harassed with the tag of Bangladeshis. They are both forced and compelled to maintain the status quo.

Inter-community relations mainly depend on the nature and purpose of the people in power as it is not the age of platonic state as ethical association or a Commonwealth. Since both Bangladesh and India are governed by the modern system of governance, there is a little role of the dispersed community to enforce their code of conduct. In the case of India, inter-community relations are still better, but the problem exists at the level of relationship between the Muslims and the governmental agencies and between the Muslim community and the *Sanghi* Hindus. In general, in most parts of the country be it in West Bengal or elsewhere, both Hindus and Muslims respect each other. That is why the Sangh outfits and the BJP are determined to create cleavages for creating a Hindu vote bank. In West Bengal, both the communities accommodate each other. Problems exist between the Muslim community and the people in power and between the former and the biased Hindu migrants.

While talking about communal riots in two parts of Bengal, there is a need to distinguish them in terms of degree and kind. Despite being 25 per cent of the total population of West Bengal, the level of anti-Muslim violence, discrimination and exclusion, the Muslim community has experienced in the state, the Hindu community (9.2 per cent in 2001 and 13.5 per cent in 1974) has not experienced so much of deprivation and backwardness. Abhijit Dasgupta, Masahiko Togawa and Abul Barkat have edited the book—*Minorities and the State* (total 214 pages) containing nine papers written by

the scholars from India, Bangladesh and Japan who have discussed the question of minorities in West Bengal and Bangladesh since the partition in 1947. Abhijit Dasgupta, in his paper 'On the Margins: Muslims in West Bengal' (pp.18-38), has looked into the issue of the affirmative action for Muslims who being 25.25 per cent of the total population have not received social and political support from the state, especially if their position is compared with that of their counterparts in the Hindu community (p. 19). He has referred to the Justice Sachar Committee Report (p. 26) for showing West Bengal's poor track record in the representation of Muslims in public sector jobs. It will be reasonable to mention here that the Sachar Committee was given very small data of employment, which had some Muslim representation. If an all-detail survey is carried out in West Bengal, it will surely picture a highly deplorable graph of exclusion.

The Hindutva agenda is conformity with Hindu ethos (p. 29) which is not true. The Hindutva ideology of the *Sangh Parivar* is not influenced by religious books but by the anti-Muslim hatred mindset of Savarkar, Hedgewar and Golwalkar. To the Sanagh Parivar, there are four enemies: Communists, Muslims, Christians and those Hindus who are friendly with Muslims and conform to the Constitution of India. Assassination of Mahatma Gandhi and killings of a few honest Hindu police officers are the examples. That is why the *Sangh Parivar* is opposed to the constitutional safeguards for Muslims, autonomy for Jammu and Kashmir, Urdu language and the Islamic heritage.

Samir Kumar Das has not delved into the problems of the Muslims of West Bengal as scholars from Bangladesh have examined the problems of Hindus in detail. There are only patchy remarks that too on immigrants. Similarly, Tetsuya Nakatani focused on the Hindu minority community, which migrated to West Bengal leaving the issue of the Muslim community in tatters. In fact, all the four chapters under part one of the book dealing with the Muslim minority community in West Bengal have not examined the state of Muslims as part two talks about the Hindu minority community in Bangladesh. This is something very puzzling. In fact, part one should have given detail findings about the Muslim situation in West Bengal more as a status report. This is the biggest point

of criticism, which cannot be avoided being expressed here.

On the other hand, part two looks more expressive in terms of taking up the case of the Hindu minority community in Bangladesh. Abul Barakat (pp. 91-118) traced the problem with the policy of 'divide and rule' in Bengal and later the two-nation theory caused communal disharmony and disruption. He has criticised the Enemy Property Act, which was made by the Pakistani Government during the 1965 Indo-Pak war. He found that during the last 40 years since 1960, the relative share of the Hindu population has declined from 18.4 per cent of the total population in 1961 to 12.1 per cent in 1981, to 10.5 per cent in 1991 and further down to 9.2 per cent in 2001 (p. 96). He also mentioned that the estimated total missing Hindu population was 8.1 per cent during 1964-2001 (p. 97), for which he has blamed the government. Rangalal Sen (scholar from Bangladesh) has looked into the role of the civil society of Bangladesh, particularly during communal riots that first took place in 1926 in Dhaka. To him, during 1947-25 March 1971, quite a number of communal riots in East Bengal caused heavy migration to West Bengal, Tripura and Assam. He also acknowledged that severe communal riots did not take place in the technical sense during the last three and half decades of Bangladesh history after its independence in 1971. He mentions communal disturbances in 1989, 1992 and during the post 2001 general elections.

Masahiko Togawa has also dealt with the problems of the Hindu minority community of Bangladesh and has discussed its social and historical backgrounds. He discussed its employment structure, land laws, constitutional issues and social unrest with substantial data, which are completely absent in the case of scholars' works on the Muslim minority community in West Bengal mentioned in part one of the book. However, Togawa refers to those stories of social unrest and insecurity for the minority Hindus in Bangladesh, which are numerous in West Bengal, Assam, Uttar Pradesh and other states. The only difference is that police officials look more biased against Muslims in India, which is not so much transparent in the case of Bangladesh. Togawa has confused *Hindutva* with pre-modern *dharma*, whereas the former is a carbonated political campaign against

Muslims and Christians in the garb of cultural nationalism and religion. *Hindutva* is neither a religion-guided doctrine nor the choice of majoritarianism, but a covert militant agenda against the Muslims and the Christians as they are considered excluded in the *Hindu Rashtra* project, which can be easily observed in various anti-Muslim and anti-Christian violence and scores of bomb blasts in different parts of the country.

Sadeka Halim's paper on the status of Hindu women is divided into five parts. The first section begins with the following sentence. 'The history of modern civilization is full of instances of violence deriving from the hatred of one religious community against another' (p. 143). This is a highly premature conjecture in terms of epistemological findings. Modern civilization, even if it is accepted as it is, is attributed to different experiences in terms of their origin, nature, evolution, purpose and narration. In general, it is the modern nation state that has been coercive, which in fact reversed the legitimacy of history in nation building. It is again the fault lines along the political parties and such organisations that produced some communal type of war games in certain countries where enforcement agencies were ethnicised and prejudiced against any target community. Even in such countries, people in general, belonging to different communities, have a history of peaceful co-habitation. The best example is India where both the major communities—Hindus and Muslims—have no hostile agenda at the community level, but a few notorious criminals finding similar mindsets as some officials and politicians indulge in anti-Muslim violence and discrimination showing it as Hindu–Muslim conflict. In other words, in almost all cases of anti-Muslim violence, *Hindutva* outfits were involved at many levels in which like-minded police persons, parts of bureaucracy and politicians had also collaborated in different forms. In section two of her paper, she speaks of constitutional denial and discrimination without substantiating her remarks. She has conducted discussion on women rights with a feminist perspective under part three of the paper. Under part four of the paper, she has discussed discrimination from within.

However, it can be said that the book—Minorities and the State—is an important piece of academic effort to

highlight the problems and issues of the minority community in both Bangladesh and West Bengal. The editors of the book deserve high appreciation for doing this noble work of raising the issue of democratic values in protecting the interests of the vulnerable group. I hope this collective work would further the process of more careful investigation into cases of denial of rights, deprivation and discriminations against minorities.

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ENDNOTES

1. The present constitution was framed by the Constituent Assembly of India (CAI) setup under the Cabinet Mission Plan of May 16, 1946. The CAI consisted of 389 members, which reduced to 299 after the creation of a separate Constituent Assembly for Pakistan on July 16, 1947. In all, 70 out of 299 were nominated by the princely states. The seats in each province were distributed among the three main communities, namely Muslim, Sikh and General, in proportion with their respective populations. Members of each community in the Provincial Legislative Assembly elected their own representatives by the method of proportional representation with single transferable vote.
2. Intending to preserve the original ideals envisioned by constitution makers, the Supreme Court of India pronounced that the Parliament could not distort, damage or alter the basic features of the Constitution under the pretext of amending it. The Supreme Court recognised this concept for the first time in the historic *Kesavananda Bharati* case in 1973. *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225: AIR 1973 SC 1461.
3. *The Telegraph* (Calcutta), 8 January 2011, front page. The ruling Congress party asked the Central government on 7 January 2011 to review its approach towards the Sangh parivar (fascist Hindu militant organisations) in the light of purported confessions of a top functionary that he and his colleagues were involved in bombing the Samjhauta Express, the train linking India and Pakistan. The party is now convinced of the urgent need to take tough action against the RSS and its sister organisations. Congress spokesperson Shakil Ahmed said: 'The involvement of fanatic Hindu groups in terror activities has not only posed a grave threat to our internal security, it has also weakened India's position in the world on cross-border terrorism'. He said the BJP, which is the political wing of the Rashtriya Swayam Sevaks (mother of the Sangh parivar) and has ruled the country for 6 years, should introspect if its association with such elements and the attempts to hinder investigations into terrorism were in national interest.
4. Previous Congress governments had banned the RSS thrice in the past — first after Mahatma Gandhi's assassination in 1948, then in 1975 during the Emergency and in 1992 after the demolition of the Babri Masjid. Digvijaya Singh of the Congress, who has positioned himself as the most vocal critic of the RSS, asked the BJP to stop obstructing and maligning the investigating agencies as they did when the late Hemant Karkare was probing Pragya Singh and others. He said: 'L. K. Advani and Rajnath Singh had even approached Prime Minister Manmohan Singh in Pragya Singh's defence (who is involved in bomb blast killings in Western India). The BJP is committing the same mistake by defending the new suspects and questioning the integrity of investigative agencies.'
5. Similar concerns were made by the Freedom House, which indicates thousands of cases of trafficking in persons, physical violence against low caste people, women and children, extrajudicial killings by police forces, and incidents of religious discrimination are ignored by bribed judges and corrupt cops. In addition, India is facing increasing political instability from home-grown religious extremists, especially Hindu extremists as represented by the RSS and BJP. Violence against Christians is on the rise. Reportedly, more Christians were attacked or killed in 2005 than in any previous year. Hindu extremists have placed a particular focus over the past few years on forcibly removing Christians from India. Using an increase in insurgent violence as a pretext, Hindu nationalist organisations in 2005 called for nationwide violence against Christians and for legislation limiting religious conversion. 'Monitoring Respect for Human Rights Around the World: A Review of the Country Reports on Human Rights Practices for 2005', *Testimony of Nina Shea*, Director, Center for Religious Freedom, Freedom House, before the Committee on International Relations US House of Representatives Subcommittee on Africa, Global Human Rights and International Operations, March 16, 2006, pp. 8-9. http://www.freedomhouse.org/uploads/press_release/ninacongtest31606.pdf.
5. *Economic and Political Weekly*, 25 October 1986.