



MINORITY RIGHTS PROTECTION IN INDIA; FROM SACHAR COMMITTEE RECOMMENDATIONS TO MOB LYNCHING

Shahnawaz Ahmed Malik
Assistant Professor (Law),
Aligarh Muslim University, Malappuram Centre.



ABSTRACT

"In any country, the faith and confidence of the minorities in the functioning of the State in an impartial manner is an acid test of it being a just State".

Justice Rajendra Sachar

KEYWORDS: *Minority Rights, Hunter Committee Report, Gopal Singh Report, Sachar Committee Report, Ranganath Commission, Prof. Kundu Committee Report, Indian Muslims, Constitution of India, Right to Education, Aligarh Muslim University, Mob Lynching, Love Jihad, Ghar Wapasi, Education.*

INTRODUCTION:

Minority Rights has been a debatable issue since independence and this issue always remains in mainstream national politics.

The Constitution of India does not define the word 'Minority' and only refers to 'Minorities' and speaks of those 'based on religion or language'. According to the 2011 census, the Indian Muslim population is 172.2 million, which accounts for 14.2 percent of the country's population. Muslims in India constitutes the largest and one of the oldest Muslim minorities in the world and account for about 10% of the world's Muslim population. An overwhelming majority of Indian Muslims – over 90 per cent – are of native origin, whose descendants accepted Islamic faith at the hands of Sufis and the Scholars at different points of time. Indian Muslims have developed highly remarkable and wide-ranging contributions to architecture, arts and crafts, music, language and literature.¹

The recent history of Minority rights in India can be traced back to debates in a constituent assembly where the demands for separate electorates and reservation were made in favor of ethnic and religious minorities. Such was the condition after the partition that Congress Party was in no mood of developing consensus inside the Constituent Assembly in favor of religious minorities regarding reservation. The problem of safeguards for minorities lost the effect after partition. The strong nationalist voice in the assembly rejected the demand for separate electorates and reservation for minorities by taking the arguments based on equality, fraternity, and communal harmony². However, the same assembly had already granted special safeguards for the Scheduled Castes and Scheduled Tribes on the ground of historic suppression of their basic human rights.

¹ 2011 Census of India available at <http://censusindia.gov.in/>

² "Education among Indian Muslims: Problem and Prospects." In M. A. Jawaid, K. N. Jahangir and Shankar Bose (eds), *Minorities in India*. New Delhi: ICSSR in Association of Manak Publications.

It may be remembered that the educational, social and economic condition of the religious minorities was not satisfactory during the partition. The demand for special constitutional protection for the minorities was in the light of their backwardness and illiteracy. The constituent assembly granted them the right to establish and administer educational institutions of their choice to teach, preserve and to protect their language, script and culture. This protection under Art. 29 and 30 was not enough to make them socially and educationally empowered and strong to compete with other communities. This fact was confirmed through various studies just after the Independence.

Sir William Hunter Committee Report (1870) was first attempt from the then British government to know the ground condition of weaker section, especially of Muslim Minority. The data shows that Muslim representation in all sectors of Job and education was very low. They were poorly represented in private and government sectors.³

The condition of Muslims just before partition was similar to their Hindu counterparts. The *Report of Memorandum of Progress in Education in British India 1916–26* stated that the 1931 census figures of illiteracy rates were 91.6 percent for Hindus and 93.6 percent for Muslims. By 1937, the average rate of Muslim girls' education throughout India had surpassed the national average.⁴

The partition of the country on religious lines proved to be fatal to large population of minorities in India. Major chunk of elite and educated class migrated to Pakistan and here remained weak and backward class of Muslim minority.

The then, P.M of India, Jawahar Lal Nehru on September 20th 1956, in a letter addressed to Chief Ministers of various states, realized that Muslims are not fairly represented in government offices. He asked CM's to improve the condition of Muslims of India.⁵

'I want to share with you a certain apprehension that is growing within me. I feel that in many ways the position relating to minority groups in India is deteriorating.....our Constitution is good and we do not make any distinction in our rules and regulations or laws. But, in effect, changes creep in because of administrative practices or officers. Often these changes are not deliberate, sometimes, they are so. In the Services, generally speaking, the representation of the minority communities is lessening. In some cases, it is very poor indeed.'⁶

In another letter on *March 1, 1950*. He wrote, 'If India is to progress, we must absorb, and make our own the various minorities in India, and notably the Muslims. If India is to progress, we must absorb, and make our own the various minorities in India, and notably the Muslims.'⁷

The Presidential order of 1950, which denied the Scheduled Caste (SC) converts to Islam or Christianity, the benefit of reservation, is one of the case in example⁸. There have been demands from minorities to change this ordinance, which is violative of Article 14 of the Constitution.

Therefore, inadequate state protection was one of the main reasons for the backwardness of Muslims in independent India. This backwardness of the Muslim community became more acute and glaring after thirty years of independence.

³ Origins of Indian education system by Basu, home.iitk.ac.in/~amman/soc748/basu_origins_of_indian_education_system.pdf

⁴ Siddiqui, Mohd. Akhtar, 'Empowerment of Muslims through Education' published by Institute of Objective Studies IOS, 2004 – pp 73-74

⁵ Three letters Nehru wrote to chief ministers Indians today need published in The Wire online on 14th Nov 2018 available at <https://thewire.in/government/three-letters-nehru-wrote-chief-ministers-indians-today-need-read>

⁶ Ibid

⁷ Ibid

⁸ Human Rights Council Forum on Minority Issues Sixth session Intervention by Savio Mahimaidass in association with International Dalit Solidarity Network (IDSN) available at http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/UN/SP/UN_Minority_Forum_-_Savio-IDSN_Oral_Statement.pdf

The Gopal Singh Committee Report of 1983 examined all aspects of Muslim backwardness and arrived at very painful findings. However, this report was never placed before Parliament; it was almost seven years after its submission that it was made public.⁹

Gopal Singh Committee maintained that there was a “sense of discrimination prevailing among the minorities” and that it “must be eliminated, root and branch, if we want the minorities to form an effective part of the mainstream.”¹⁰

Further, the reports of 43rd Round and the 55th Round of the National Sample Survey and the Programme for Action under the New Education Policy of 1986 clearly presented again a very gruesome picture of Muslim Minorities.¹¹

In this regard, some of the schemes initiated by central and state governments failed to bring any change for the socio-economic and educational Upliftment of the Muslim minority.

In the year 2004, Ministry of Social Justice and Empowerment, Government of India had issued a notification for the constitution of National Commission on Religious and Linguistic Minorities (NCRLM), under the chairmanship of (Retd.) Justice Rangnath Misra. The commission submitted its report on May 10, 2007. After a long gap it was made public in January 2010. Two recommendations are very important. Firstly, 15% posts in every Central and State Government department must be reserved for minorities — 10% would be for Muslims and 5% for other minorities. Secondly, if it becomes a judicial deadlock with the situation, which cannot be avoided, the recommendation is that among the total population of other backward class 8.4% is minority. For that reason from the total 27% reservation for OBCs 8.4% seat must be kept aside for minorities. This 8.4% would be divided into two parts 6% for Muslims and 2.4% for other minorities.¹²

In recent years, Prime Minister’ High Power Committee constituted under the chair of (Late) Justice Rajendra Sachar highlighted the extent of backwardness of Muslims minorities.

SACHAR COMMITTEE REPORT AND ITS RECOMMENDATIONS 2006:-

The Sachar Committee Report shows clearly that the literacy and educational status of Muslims is particularly low. The literacy rate among Muslims is far below the national average and this gap is greater in urban areas and for women. Nevertheless, regional differences do also emerge. In 10 out of 21 selected states, the literacy rates among Muslims is found to be higher than the state average. These states include Maharashtra, Andhra Pradesh, Tamil Nadu, Gujarat and Karnataka.¹³

In Kerala, the difference between literacy rates of socio- religious communities is minimal. Overall, Muslims are doing better in this respect in the south and in the west of the country. There is a significant disparity between the educational status of Muslims and that of other socio-religious categories (except SCs and STs).¹⁴

⁹ Summary of Gopal Singh Report <http://muslimreservation.in/wp-content/uploads/2016/05/Gopal-Singh.pdf>

¹⁰ The struggle beyond committees and commissions by Dr. Md. Abdus Salam June 3, 2012 http://twocircles.net/2012jun03/struggle_beyond_committees_and_commissions.html

¹¹ Siddiqui MKA, *Social and Cultural Empowerment of Muslims in India* published by IOS 2009 p 1

¹² NCRLM available at <http://www.minorityaffairs.gov.in/reports/national-commission-religious-and-linguistic-minorities>

¹³ Summary of Sachar Committee Report

<http://www.prsindia.org/administrator/uploads/general/1242304423~~Summary%20of%20Sachar%20Committee%20Report.pdf>

¹⁴ Ibid

The Sachar Committee concluded that in 12 states where the Muslim share in total population is 15.4 per cent; their representation in government jobs is only 5.7 per cent. In police, administrative and diplomatic services their representation varies from 1.6 to 3.4 per cent.¹⁵

Muslims, have a poverty rate of 43% whereas the national average is 39% (National Sample Survey Organisation, 1999-2000). In rural areas Muslim landlessness is 51% as compared to 40% for Hindus. In urban areas, 60% of the Muslims have never gone to schools as against the national average of 20%. Only 5% of Muslim women have completed high school education and the income of the average Muslim is 11 % less than the national average. Apart from low level of education, lack of access to bank credits and government programmes is the real cause of economic backwardness of Muslims. For example, the entire Muslim concentration area of Jamia Nagar, Zakir Nagar and Okhla Village in Delhi have been excluded by banks for loaning purpose. The Committee has recommended access to Muslims in Priority Sector Advances, and any shortfall in targets should be critically examined by higher banking watchdogs.¹⁶

MAJOR RECOMMENDATIONS BY THE COMMITTEE¹⁷:

The Committee made a number of recommendations to address the status of the Muslim community in India, including:

- Set up an Equal Opportunity Commission, create a 'nomination' procedure to increase participation of minorities in public bodies, provide legal mechanism to address complaints of discrimination against minorities in matters of employment, housing, schooling and obtaining bank loans. Further it recommended for the establish a delimitation procedure that does not reserve constituencies with high minority population for SCs.

GOVERNMENT INITIATIVES AFTER SACHAR COMMITTEE REPORT :-

The Central Government through, Ministry of Minority Affairs, initiated certain schemes for the benefit of Minorities in Muslim concentrated Districts MCD's , prominent among those are scholarship schemes, fellowship schemes, establishment of ITI's , Anganwadi Centres, girls hostels etc. Banks also opened more branches in MCD's and were encouraged to offer more loan to small scale industries, artisans and peasants. Aligarh Muslim University established its three centers in MCD's of Bihar, Kerala and in West Bengal in order to establish full-fledged universities for minorities. The new government in 2014 at the Centre did not release funds for the development and all these three centers are struggling to meet their daily expenses.

These half-hearted measures could not change the situation of the minorities who are facing backwardness for decades.

In the year (2014), the Prof Amitabh Kundu committee was formed to assess success of Sachar recommendations, and recommended formulation and enactment of a comprehensive anti-discrimination legislation to prohibit discrimination based on disability, sex, caste, religion and other criteria.¹⁸

Dr. Abu Saleh Shariff, in his recent study in 2016 on Minorities¹⁹ evaluated the implementation and impact of post-Sachar policies at the national level and in selected states. He has found that educational level and literacy level has increased but in Government jobs and in other areas of development, the condition has not improved. For example the study found that 81% of those surveyed between the ages of

¹⁵ The struggle beyond committees and commissions by Dr. Md. Abdus Salam June 3, 2012
http://twocircles.net/2012jun03/struggle_beyond_committees_and_commissions.html

¹⁶ Sachar Committee Report 2006

¹⁷ Ibid

¹⁸ Muslims as Scheduled Caste: Kundu Committee, The Milli Gazette, Published Online: Oct 28, 2014
<http://www.milligazette.com/news/11177-muslims-as-scheduled-caste-kundu-committee>

¹⁹ 'Institutionalizing Constitutional Rights: Post-Sachar Committee Scenario', Shariff, Abu Saleh, Oxford University Press 2016

15 to 24 years qualified for the government's minority scholarship schemes; yet one half did not apply and only a smaller share of those who applied actually received it.

TEN YEARS AFTER SACHAR COMMITTEE REPORT ²⁰

- a. Sachar Committee had highlighted the need to increase the share of Muslims in IAS and IPS. The committee had recorded the share of Muslims in the IAS and IPS to be 3% and 4% respectively. However, Ten years on, as per the data of the Home Ministry, the corresponding figures increased only marginally to 3.32% and 3.19% respectively as of January 2016. An analysis of the government data shows that fall in Muslim representation in the IPS was because of a reduction in the share of Muslim promote officers in the IPS.
- b. In 2005, the share of Indian Muslims in India's police forces is 7.63% and it fell to 6.27% in 2013. Following the deterioration, the government has stopped releasing data on police personnel broken down by religion.
- c. The work participation rate among Muslims has increased only marginally over the years. For men, the rate increased from 47.5% in 2001 to 49.5% in 2011. For Women, the rate increased from 14.1% in 2001 to 14.8% in 2011.
- d. Analysis of the data shows that both preceding and following Sachar report, Indian Muslims have the lowest average monthly per capita expenditure (MPCE) among all communities.
- e. Muslims population in India increased from 13.43% in 2001 to 14.2% in 2011. The increase of 24.69% in the population of Muslims is the smallest ever recorded between the two censuses. Similarly, the population of Muslims in urban centres too remained higher than the national average as enumerated in both Censuses.
- f. Sex ratio among Indian Muslims remained better in both the 2001 and 2011 Censes.

INTOLERANCE

Since the Sachar Committee in the year 2006, up until now, this very turbulent year, 2018, India with its several cultural, ethnic and religious diversities has experienced an unstable, insecure and violent atmosphere. While the Sachar Committee laid down several recommendations for the development and progress of the minorities, the Government has ignored all the recommendations. Minority Education under Article 30 is now considered as minority appeasement. The Government has filed affidavits in Supreme Court and in High Court, asserting that Aligarh Muslim University and Jamia Millia Islamia University are not minority universities. This is total just opposite stand taken by the central Government after the change of power in 2014. The Haj subsidy has been withdrawn in the name of providing education to minorities but benefit has not been returned to the minorities. Further, the existing scholarships and fellowships have also not reached to beneficiaries due to various blocks and complex procedures. Main streaming of Madarsas and salaries of Madarsa teachers are also delayed.

Threat and rebuke to minorities is common thing. The murders and lynching of Minorities and Dalits in the name of Beef, Love Jihad and Ghar Wapasi is 'new normal'. Allegations of cow smuggling, beef eating, love *jihad* as well as of heinous crimes like rape and sexual violence make it more convenient to orchestrate lynching and mob violence. According to a report of *Dismantling India* Since 2014, the country witnessed 371 cases of hate crimes over the last four years, including 228 cases of violence against Muslims.²¹

²⁰ Ten Years after Sachar published in GK today available at, <https://academy.gktoday.in/current-affairs/10-years-of-sachar-committee-report/>

²¹ 'Modi govt buries its head in the sand over data on mob lynchings' by Bhasha Singh

Published in National Herald on 24 Jul 2018 available at

<https://www.nationalheraldindia.com/india/modi-govt-buries-its-head-in-the-sand-over-data-on-mob-lynchings>

In one of the incident in June 2017, when 15-year-old Junaid Khan was traveling home with his siblings to celebrate Eid, he was stabbed to death by his co-passengers in a moving train after an argument over seats turned ugly. According to reports: "The men (perpetrators) allegedly mocked the boys, tugged at their beards and accused them of being beef eaters."²²

The Media and specially TV debates are discussing only communal issues on a regular basis to create communal divide. The rhetoric is totally changed in favor of communalism. The minorities all over the country are living in constant fear, a fact which is time and again confirmed by even celebrities of Muslim community.

CONCLUSION:-

Therefore, when the constitutional protection and freedom of religion are constrained from all sides in that situation it becomes very difficult to think of development of minority section.

The opposition parties are weakest and under pressure to even mention minority issues. While it will be wrong to presume the inevitability of clash of interests between the majority and minorities, the civil society must create tolerance and love for diversity through media, forge inter-community linkages and foster better understanding among the various socio religious, ethnic and linguistic groups for peace and progress of all. .

The Muslims have forgotten Sachar Committee and its recommendations and the only thing today which is in in their mind is that protection of life and property of themselves. Fear and discouragement has prevailed deep in their thoughts. The situation must be changed in favor of overall peace and prosperity of the country.

²² *What Explains Mob Lynchings Becoming the New Normal in India* by Abul kalam Azad , 26th Feb 2018
<https://thewire.in/caste/what-explains-mob-lynchings-becoming-the-new-normal-in-india>