

**THE MUSLIM
REALITY
IN
INDIA**

Edited by
Ishtiyaque Danish

THE MUSLIM REALITY IN INDIA

Published 2016

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Preface

The Muslim reality in India, like other realities of the country, is both complex and diverse. It is, however, pervasive like poverty and illiteracy. In fact poverty and illiteracy are the twin diseases that afflict the Muslim community the most and have kept it backward.

There are known problems like the minority character of Aligarh Muslim University, the problem of Urdu language, all pervasive unemployment, communal riots and brazen or hidden discrimination etc. but the volume in your hand has normally avoided to discuss many issues mentioned above. Hence we have deliberately adopted a different methodology. The contributors not only raise issues but also try to offer solutions with which the readers have all the freedom to agree or disagree. The articles/contributions included in this volume have been written with a view to generating hope, for it alone can show us the way ahead and take steps in the direction of a better tomorrow.

Besides thanking the contributors I owe thanks to Mr. Kartik Raj Kushvah for publishing this edited volume in an excellent Manner. I also thank my wife and children for bearing with me When I was working on this volume.

CONTENTS

<i>Preface</i>	iii
1. Pluralistic Ethos of India <i>Pirzada Mobammad Amin</i>	1
2. Marginalization of Muslims in Rural India <i>Abdul Matin</i>	36
3. Police and Minorities in India <i>AmanMohd. Khan</i>	48
4. Uniform Civil Code and Judicial Activism <i>Shakeel A. Samdani</i>	75
5. Muslim Women in India <i>Sekb Rabim Mondal</i>	109
6. Muslim Education in West Bengal <i>M.K.A. Siddiqui</i>	126
7. Madrasa Education in Rayalaseema <i>M. Mobammad Irfan</i>	141
8. School Dropouts among Muslim Boys and Girls <i>MusarrathBanu K.</i>	175
9. Indian Muslim: Prospects and Retrospect <i>Zaboor Mobammad Khan</i>	215
10. Possible Means for the Development of <i>Awqaf</i> in India <i>Syed Kbalid Rashid</i>	236
11. Theory and Practice of Islamic Banking in the Light of Indian Banking Law <i>AbsanulHaq</i>	275

- | | |
|---|-----|
| 12. Globalization and Education: Opportunities and Challenges for Indian Muslims
<i>Abdul Waheed</i> | 315 |
| 13. Overcoming Social Exclusion: Lessons from Kerala Muslims
<i>MubammedHaris K.T</i> | 343 |
| 14. The Education of Muslims in Malabar, Kerala
<i>Anwar Sadath</i> | 356 |
| 15. Islamic Response to Modern Education
<i>Ishtiyaque Danish</i> | 372 |

List of Contributors

Index

Pluralistic Ethos of India

Pirzada Mohammad Amin

The world comprises of about two hundred countries of diverse linguistic, racial, religious, cultural and varied sources of ethnic verisimilitude. This makes the world a heterogeneous complex entity where differing nations offer tremendous challenges being so different, yet so alike in certain respects. Variety indeed is the spice of life, in the lives of individuals as in the la-politiques of the world giving rise to tremendous problems of cohesion and indeed baffling divergence leading some to state that if it were not the pluralism albeit fissiparous, divisive and dichotomous, there could be no concomitant alternative of toleration, accommodation, mutual appreciation bringing forth conditions of equity and moderation in our lives.

There are indeed not many countries in the world where within one country one can find the co-existence of a plural universe that we talked about in the context of the world. India is such a country where the compendium of universal diversity at all levels finds manifestation in the most remarkable fashion. The encyclopedic diversities are unique to India. The multivariate specificities of social, anthropological, racial heterogeneities make India a special place. Acknowledgeably, it has spawned more problems at the political level but, historically speaking, this has been the greatest strength of the country – it has held the country together satisfactorily so far. A continuum of sustaining unity in diversity has been responsible for its identity as a nation and for the people who constitute the nation.

Today this identity is under threat as never before and this seems to subsume not only the state but also the pan – Indian society and Indianness as one has come to know of it.

Tensions, internecine squabbles and fractitious communalism are gnawing at the body-politique as never ending vermins, setting off panic buttons everywhere. The civilization that has endured millennia is nearing an apocalypse, somebody has so characterized. For intellectuals and policy planners it has become intractable to analyze the contours of this desideratum of change as much it has been almost impossible to manage and put any semblance of order in the plural society.

However frustrating this exercise may be, important lessons need to be learnt from the co-existence of multiple identities and social pluralities in this nation-state of continental dimensions. It needs to be accepted that discord, belligerence and conflict have been part of an unending saga of growth and co-existence throughout the last millennia. So was toleration and mutual concord. Arguably, it was the last century that introduced newer forms of challenges with the advent of industrial revolution, technology and now globalization posing threats which the earlier centuries had not even contemplated. Hence Indian pluralism and its future are at the crossroads today. Is there optimism for the future? Perhaps, there is, but there can be no denying the fact that the odds are stacked against it, appearing almost insurmountable. A lot of preparation, give and take at all levels, from the societal level to the governmental is the need of the day. This is so because one should not underestimate the potential of the new dangers to national integration, because in India as in rest of the world the problem, or rather the dilemma, of nation-state building has not been resolved amicably. The problem is even greater now in the face of subsuming of the nation-state under the auspices of the new regime of globalization. With the world becoming a global village, the new *mantra* is to harp on standardization and uniformity, rather than on differentiation and exploration of uniqueness.

India Pluralist Cosmogony

Countless components have contributed to make India a unique mosaic of heterogeneity and pluralism. If we were to visualize the magnitude of the scale and dimension of the classic plural society that is India, the scale and reconciliation of the massive coordinates of regional, ethnic, religious, castiest and linguistic identities and proto-identities that go on all the time one would realize that it is a unique experiment in the world.

A very authoritative source has characterized India in glowing terms and states that:

India remains one of the most ethnically diverse countries in the world. Apart from its many religions and sects, India is home to innumerable castes and tribes, as well as to more than a dozen major and hundreds of minor linguistic groups from several totally different language families...¹

Further, the same source in a different published tone suggests that:

Peoples of India comprise widely varying mixtures of ethnic strains drawn from peoples settled in the subcontinent before the dawn of history or from invaders whose historicity is well known. Northern India is the hearth within which Hinduism, Buddhism, Jainism and much later, Sikhism originated. These indigenous faiths were supplemented by Islam and Christianity as a result of external contacts over the last two millennia.

Hinduism whose roots in India run deepest, accounts for approximately four-fifths of the population, while Muslims, India's largest minority, constitute about one-ninths of the population followed by Christians, Sikhs, Buddhists and Jains. Tribal animists though numerous are for the most part counted as Hindus. India's linguistic diversity is extreme. Three-fourth of the population speaks languages belonging to Indo-Aryan group of Indo-European family, which have emanated from Sanskrit. These include Hindi, the national language, and Assamese, Bengali, Gujarati, Kashmiri, Marathi, Oriya, Punjabi, Sindhi, all enjoying official status. Nearly one-fourth of all Indians speaks languages belonging to Dravidian family among which Kannada, Malayalam, Tamil and Telgu have official status. Hundreds of affiliated languages grouped in several families account for less than 5% of the population.²

It is very significant that we understand what pluralism means. Generally speaking, we tend to believe that it is a civilizational category dealing with co-existence of multiplicity of different but not distinct cultures, religions, caste groupings, also further differentiated on regional, ethnic-existential realities. Scholars tend to agree broadly on these fundamentals, though they add significant dimensions to it. Furnivall for one feels that the description of a plural society is that where:

Each group holds by its own religion, its own culture, its own ideas and ways of living. As individuals they meet but only in the market place, while buying and selling... There is a

plural society, with different sections of the community being side by side, but separately within the same political unit. Even in the economic sphere there is a division of labour on racial lines.³

McLennan, giving a post-modernist perspective to it, says:

Pluralism indicated, amongst other things, a suitably humble and relativistic acceptance that there is a range of cultural values; opposition to all forms of cultural imperialism; release from the dead hands of Enlightenment scientism and rationalism; fruitful methodological diversity; endorsement of different ways of knowing and of being; creativity and openness in theory; and embrace of a wide range of social interests and interests groups in the modern political scene none of which are 'primary' in any demonstrable sense; affirmation of democracy as an end in itself; attention to the complexities of political allegiance; the sense that our social and political identities are now chosen rather than inherited; anti-utopian political horizons; enshrinement of the principle of 'equal but different'.⁴

It is clear that the meaning of pluralism has not been uniform among scholars. Similarly the concept of pluralism changes in changing contexts and societies as values change and existential modalities transform. But it is true that "pluralism in its basic meaning refers to the existence of multiplicity of modes and methods, thoughts and ideas, culture and political forms, and plurality of identities. It is deconstructive of any form of monism and uniformity.

It provides a scheme whereby tolerance and accommodation can take place in a multilingual, multi-religious, multicultural, caste-plural setting. Consciously it tries to be non-homogeneous and non-hierarchical to magnify and provide the democratic values of equality and liberty to all its constituents. It is paramount condition for the sake of dissipating conflict and peace. Most importantly it gives dignity to diversities and difference. By so doing it proffers social and political space for expression and vindication of multiple identities.

Democracy is possibly the best form of governance for a plural society. As Rasheeduddin Khan wrote: “democracy as a system sustains, and even promotes, pluralism. And if democracy is federal, then pluralism not only flowers but also strikes deep roots in the political system.”⁶ Democracy is a very articulate and competitive model of political system. It provides the forum for different groups to such a degree that if properly utilized a level playing field can be provided to all. Federalism similarly is premised on the value of collective life and on the recognition of collective and individual identity.

If one looks at pluralism that exists in India, with the help of the perspectives on this concept as discussed here in this section, one can notice that India, as noted above, is a classic case of a pluralist democratic society. We have in this section merely posited how authorities have encapsulated and characterized our society. The following sections would substantiate in greater details the actuality of the situation and also present analytical perspectives. Thus it is clear that nowhere else, as one finds in India, is found the revertible osmosis of pluralism; therefore implicitly pluralist cosmogony is born in the soil of *Bharata*.

Historical Genesis

The social mosaic is a product of thousands of years of history in the subcontinent as also of social geography. The civilizational unity grew up over a period of innumerable centuries. Its growth was reflected in the setting of South Asia in general, as nation building, as a process was not native to its soil earlier. It is largely a European import and pervades organized political existence in the last two centuries. Bulk of what constitutes India, Pakistan, Bangladesh, Nepal, Bhutan, Lanka and Maldives have emerged as entities only recently. They were parts of a Pan-Indian civilizational identity and were also part of the geographical spread of India with an unbroken continuity.

The South Asian, or Indian subcontinent as it is loosely preferred to be called, is a distinct sub-global entity in terms of flora and fauna, climatic and physical conditions, mineral resources, ethnic and inter-ethnic composition and orientations towards beliefs, values and cultures. 'Its manifest plurality within itself does not, however, deprive it of an overall impress of a unique identity which can be better perceived in contrast to the contiguous regions of West Asia, Central Asia and South East Asia'. Imperialism in the last two centuries introduced nationalism, signaled the end of tribal-feudal hegemonies towards a restructuring of society on an equal, just and democratic principles. The distinct emergence of nation-states was also a bi-product of this fallout.

Genealogically we have a great sense of continuity and change with other countries (now formed after colonialism was thrown off) of the South Asian continent, and it explains our assertion of sub national and segmental identities and their convergence and harmonization. The syncretic pattern of

India's pluralism is in large measure a carryover from the culture of coexistence that had its roots in the South Asian identity. Being the largest country of this region this geographic and demographic giant is more a continental state and has more diversities than all of Europe put together. The Republican Constitution proclaims the new national identity. Five governing principles namely cooperative federalism, democracy, socialism, secularism and autonomous foreign policy are its bedrock. The anti-imperialist freedom struggle has contributed to the values that the state cherishes. "It was not only the biggest and the most widespread anti-imperialist movement in world history, but also an all-inclusive movement of all patriotic elements drawn from the diverse continental range covering regions, language groups, religious communities, castes, tribes, urban and rural segments... That is why the Sovereign Democratic Republic of India with all its shortcomings... still remains the most stable polity in the wide range of newly independent developing countries of the world and is respected for its commitment to secularism and secular democratic politics in the background of Third World Politics that is vitiated by religious fundamentalism, racial strife, oppressive coup d'état regimes, autocracies and un-democratic forms of government."⁷

There are various complexities in the social domain. We find there are about 60 socio-cultural sub regions marked for their homogeneity and sub national identity within the seven natural geographical regions of India. Some commentators have characterized it as a pattern of socio-cultural federalism that was inherent part of the growth. India's democratic pattern may be young; its pattern of socio cultural federalism is age old with distinctive heritage of rich diversity.

Developing since the Vedic ages it continued to acquire new forms and substance in the ancient period (all through the course of different dynasties, the Mauryas, Guptas, Sakas,

Chalukyas, Kushans, Cholas, Pandyas etc.) and came to acquire distinct characteristics by the medieval times, in the span covered by the generally considered powerful kingdoms of the Delhi Sultanate, the Bahamanis, the Mughal empire. The Mughal *Subas* and *Sarkars* considerably coincided with socio-cultural identities. This normal and rational process of the development of well-knit socio-cultural communities was only disrupted by the policy of annexation and arbitrary formations sprawling provinces (like the original United Provinces of Agra and Awadh/Oudh, a gigantic amalgamation of disparate regions) under the British colonial rule.

In the ancient texts India's federal socio-cultural pattern has been recorded with amazing clarity in Vayu purana. Although nowadays very little is known of the 'Janapada' of Bharatavarsh – the territorial communities identified by an admixture of ethnicity, dialect, social customs, geographical location and political characteristic. The Puranas (the Vayu and Vishnu Purana in particular) throw light on this primordial mosaic of our socio-cultural diversity. Bharatavarsha which covered the territory which today comprise India, Pakistan, Bangladesh and Afghanistan was reputed to have in its fold 165 Janapadas, of which probably about 120 may be located in present day Indian Republic.

Amir Khusrau's *Masnawi Nub – Sibir* gives insights into the rich variegated pattern of Indian life. So does *Akbar Nama* and *Tuzuki Jahangiri* which record the various regions and sub regions of India, and its various dialects, social practices, castes, hierarchy, agrarian and revenue systems, artcrafts and professional structure.

The plural mosaic of India is composed of segmental realities. Segments constitute language and dialects, religious and denominational sects and communities, castes and sub-castes,

tribes, regional and sub-regional configurations, ethnic formations and defined cultural patterns. While recognizing the major fact that India is a historically evolved unified civilization, it is necessary to remember that in the making of such a civilization many strands of races, languages, cultures and religious communities, have mingled to render it the hallmark of an authentic and classic plural society. In India, unity itself is a federal concept. It is certainly not the unity of a Unitarian polity. It is the unity born out of the inter-dependence of diverse socio-cultural entities that pass through the stages of competition, conflict and reconciliation, and realize the fatal truth that in mutual confrontation they might themselves destroy each other, while in reciprocal cooperation they can thrive, jointly and severally.

The legacy of such a plural mosaic was also enriched, in no small measure, by two most important influences – namely the Indo-Aryan and the medieval Indo-Muslim strands. The Indo-Aryans contributed to the expansion of Vedic cultural streams that over the centuries have contributed in fertilizing the body politics of India and even today remains the sub-soil of acculturation. The Indo-Muslims have also generated a strand that has been woven into the texture of India's national existence a valuable intermesh of composite culture by inter-winging the threads of the Bhakti cult with the Islamic mystic (*the Sufiana*) tradition, along with the Turko-Iranian mores of collective life, thereby creating a new cultural synthesis, in which the values of man and social ethics reflected a new ethos. Naturally, therefore, the composite culture originated in an environment of reconciliation rather than of refutation, cooperation rather than of confrontation, coexistence rather than mutual annihilation of the politically dominant Islamic strands represented by the Iranian, Turko-Afghan Central Asian mix of Khorasan, Balkh, Bukhara and Khwarizm. This co-existed with the socio-culturally widespread and ramified Hindu

traditional sub stratum particularly covering the Kshatriya, the Vaishya and the middle sub castes like Rajputs, Thakurs, Jats, Marwaris, Banias and the land based middle castes like Thakurs, Ahirs, Kurmis, Gujjars, Yadavs etc. in the wide expanse of the Indo Gangetic belt.

Such an enlightened consciousness evolved from this composite culture that found manifestation in the life and personalities of some great *sants* (saints) and peers (or better known as *pir-faqirs*). Baba Farid (1175-1265) who is considered the father of Punjabi literature was one such saint, who deeply influenced both Sant Kabir and Guru Nanak and is today revered by all, Hindus, Muslims and Sikhs. Abdul Rahim Khan-e-Khanan (1556-1627) was not only a Krishna *bhakt* but also a pioneer of the Hindi Poetry whose well known '*Barve*' metre and rhythm symbolise the values of old traditions in *Braj* culture (especially his '*Nayika Bheda*'), Raskhan's (born in 1573) '*Sajan Raskhan*' and '*Prem Vatika*' and Nur Muhammad's *masnavi* '*Indravati*' (1744) were notable ones as they were creations of men of letters.

In fact, ever since the beginning of Islam's encounter with Hinduism in the Eighth century CE, but much more since the Eleventh century there has been a careful and profound discourse and articulation between Muslim intelligentsia and the majority community, the Hindus and also independently in various writings and works. The *Bhakti* movement and its revivalist rubric similarly reciprocated at various junctures and points in history from the pan Hinduism fold. Chaitanya Mahaprabhu, Namdev, Purandaradasa, Sant Gyaneswar, Tukaram, Eknath, Tirukkural and many others highlighted the same concerns of humanistic revival, plurality of composite culture from the mainstream.

To give illustrations in this regard Khusrau in a couplet said:

The ill-clad Hindu rustic or peasant who passes his night with his horses under the azure sky and the Brahmin who takes his ceremonial bath in the cold water of the stream in the latter part of the night and who is content with a cell or a closet, even the shade of a tree, in all seasons, should not be looked down upon. The Brahmin is such an embodiment of wisdom and learning that he can easily tear to pieces all the records and books of Aristotle.⁸

Or take for example this passage written by Abul Fazal of *Akbar Nama* and *Ain-e-Akbari* fame. He wrote his deep conviction for eclectic spiritualism and reverence for all religions in his Persian inscription written for a temple in Kashmir:

“O God, in every temple I see people that seek Thee
and in every language I have spoken they praise Thee!
Polytheism and Islam feel after Thee,
Each religion says, Thou art one, without equal
If it be a mosque, people murmur the holy prayer
and if it be a Christian Church, people ring
the bell from love of Thee.
Sometime I frequent the Christian cloister,
and sometimes the mosque,
But it is Thou whom I search from temple to temple.”⁹

The pluralistic dimension is also reflected in the main schools of philosophy in Hinduism. Hindu philosophy is dualistic i.e., one believing in ‘astick’ (orthodox) and the other ‘nastick’ (Heterodox). Though the Astik school of philosophy accepts the authority of the Vedas it differs substantially in its interpretations and conceptions. “The important epics of the Hindus – the Ramayana and the Mahabharata – are also

pointers of diversities. Both the epics are not interpreted uniformly throughout India. The regional, language and caste variations of the interpreters defy any construction of homogeneous identity of the Hindus. Even Ramayana has more than a hundred versions. Interestingly, Ram is not conceived and interpreted uniformly in different parts of India. Regional identity is more important than the pan-Indian identity. Though both the identities are not essentially antithetical to each other, the regional identity precedes the pan identity. The fact is attested by the vast regional diversities which contradict the process of homogenization of religious identity..."¹⁰ Thus the pluralistic ethos and the manifestations of Hinduism are as significant as the religion itself.

Truly, therefore, it can be said that the genesis of pluralism and diversities in India are deeply embedded in its soil. It is an inalienable part of Indianness though it has had a chequered history fraught with dissensions and harmonization at every step, but where the latter has prevailed more often than not.

Socio-Ethnic Dimensions of Indian Pluralism: A Contemporary Analysis

We have noted the segmental character of India's plural federal character. In a sense, all plural societies are segmental. The term 'segment' is reflective of both qualitative and quantitative attributes. Apart from the major segments that characterize Indian society there are multiple other segments as well. Though they are subsidiaries to the religious system as they owe their origination to it, by themselves they have become important status summation models of acculturation and have an important bearing on the pluralistic ethos of India. They are also related to the social geography. As is to

be expected, in a big territorial society like India, there are regional clusters or major and minor segments.

i) First Segmental Reality: Caste

Perhaps the most important of such segments is the caste system, a characteristic sociological unit of primordial cohesion peculiar to India. It has been observed by foreign scholars that the caste system is truly a synonym for the Hindu society. Irrespective of other affiliations it serves as the functioning unit of the Hindu social system which fills an important gap in the life of the people' in the absence of well-developed interest groups and voluntary associations.

As has been accepted now "caste has been better appreciated in terms of a status group rather than a traditional variant of class, if the latter is defined primarily in the framework of relations of production and the former according to patterns of consumption. Status groups also exhibit distinctive consciousness of kinship and peculiar sense of community cohesion based on a style of living. The pervasion of caste and the latency of caste consciousness in India is detectable in many sectors of national life. In politics it is all too apparent. While the form of our politics is secular, the style is essentially casteist."¹¹

Irrespective of this, it has been claimed by many that the caste system is weakening with the onset of modernization, adoption of universal franchise, increased prosperity and spread of liberal ethos. Not quite, the very opposite has happened rather. Says Khan:

Today, caste – the traditional integrative agency – has aligned with the modern integrative agency – the political party and by this fusion gained new strength...

Involvement in the electoral politics particularly in the framework of multi-party system results in the fragmentation and then the crystallization of fragmented caste groups around new political loyalties. Precisely because today caste consciousness is acute, the contending political parties vie with each other in obtaining caste votes. But by so doing they are vitiating the caste system. Firstly, they are splitting caste cohesion by using candidates belonging to the same caste; secondly, by forcing coalescence of traditionally different and sometimes hostile castes for political and electoral purposes they are creating a new cohesion which is making caste perform roles which are new and secular based not on ascription but community of outlook and aggregation of interest; and thirdly by striking at the traditional basis of caste in society, the apparent resurgence of caste is a false manifestation.¹²

The 1901 Census of India counted some 2738 *Jatis* in India. Sociologists have pointed out the queer phenomena, peculiar to India that *Jatis* (or castes) also play the role of a class by deviating from the *Chaturvamashrama dharma*. Castes acquired dominance due to their acquisition of landed property and after that they acquire material wealth, the benefits of eminence in a constitutionally ordained society like education, participation in power and thus climb up the ladder of social eminence and hierarchy and then live up to the norms of a caste society.

There are major land based castes in every region and state in India, whose power and emergence is recognized by other castes. For example, the Rajputs, Yadavs, Jats, Ahirs, Gujjars

are dominant in most of UP, Bhumihars Rajputs and Koeries in Bihar; the Kayastas, Marwaris and Rajputs in Rajasthan; the Brahmins, Chettians and Mudaliars in Tamil Nadu. These *Jatis* are using political power to retain their traditional hold on power. Despite the constitutional provisions for Scheduled Castes and Tribes and later the implementation of Mandal Commission recommendations to ameliorate the other Backward Castes's problems taking the total reservations to 49.5%; there has been very little change in the caste scenario and dominance and the aforementioned castes remain a major force. Though it is also being seen that the increase in number of parties both at the national and the states' level has led to a resurgence of the lower castes and their increased belligerence has led to grudging share by the dominant parties (which are in turn almost invariably controlled by the dominant castes) has started making a dent in the politics of India. Caste churning and violence has become an essential part of the Indian social ethic and will trouble us for a long time.

The segmental role of caste is a major pain for pluralism. Despite the presence of a just and honourable constitution which has provided safeguards to all castes and protective discrimination by way of reservation in government jobs and education, promotion etc. caste internecine warfare is a daily reality. Since the equalitarian impact of Fundamental rights have not percolated in the body politics and it needs a specific untouchability (offences) Act, 1955 to wipe out in some measure (though not entirely) the scourge of untouchability one remains skeptical whether the hierarchical and segmental role of caste system will not make a dent on the pluralistic character of the country in the future.

Second Segmental Reality

A second segmental element impacting on pluralism is the presence of eight distinct religious communities. As hinted out in an earlier section, these religious systems are both innate to India (i.e., they have taken birth here) and also imported into India. The Hindu religion accounts for a total of 82.7% of the population (Hindu 61.2 and Scheduled Castes/Tribes 14.6%); Muslims 11.8%; Christians 2.63%; Sikhs 2%; Buddhists 0.7%; Jain 0.3%; Zoroastrians 0.3% and the Jews 0.1% respectively. They differ doctrinally and in their social patterns, principles of group life, customary laws and traditions and hence are by nature antagonistic to each other. As plural entities they are a classic case of coexistence but they have created complications in the process of secularization of the Indian polity. Basically the problems of communalism, intolerance and problems of reconciliation and non-accommodation have arisen in the case of Hindus, the Muslims, Christians and the Sikhs. They are all Indian communities.

We would be focusing only on two of these religious groups here to see what problematic interactions they are undergoing but which has not been the case earlier in the millennia of shared history of composite culture. The Hindus and Muslims have lived ever since Islam landed here along with mercantilism in Malabar in 712 CE from Southern Arabia. Today Indian Muslims are the second largest congregation, next only to Indonesia. Islam did not quite acquire wide spread acceptability as Hinduism as a religion was resistant to any change, yet it goes to its credit that it led to the growth of composite culture in India (whose history we have traced in the earlier section). We find manifestation of humanistic revival in the literature of the Bhakti School and the Sufis. Along with it in the entire gamut of music, arts and crafts,

handloom, music, architecture, painting, sculpture etc. there is a mosaic of synthesis.

Such an inter-mix could be possible because “sword has never been the main instrument of Islamization. Islam’s humanist and radical appeal, especially in sharp contrast to the iniquitous, sterile, oppressive, even inhuman caste system, has been a great factor of attraction, particularly for the artisans, craftsmen and exploited peasant *Jatis*. Islam appeared as a liberating and humanizing process for emancipation from a heritage of bondage... (Thus majority of Muslims in India are indigenous people who embraced Islam for variety of reasons at different points of time.”¹³

Though this is a fact that there were two influences at work and the two corresponding trends viz., one tolerant, compassionate and the other orthodox and intolerant strands of Muslim religion. For every Mahmud Ghaznavi there was an AlBeruni; for Alauddin Khilji there was Amir Khusrau; Aurangzeb versus Dara Shikoh; Mohd. Ali Jinnah vs. A Maulana Abul Kalam Azad. Thus the humanistic elements were in equal number. They set the structure of composite culture from 13th century onwards. Rulers, theologians and Sufis, writers, poets and artists all have contributed to it in no small measure. Some such rulers were Sikandar Lodi, Zainul Abidin, Ibrahim and Ali Adil Shah, Ibrahim and Quli Qutub Shah, Akbar and Sher Shah Suri. Among the theologians and Sufis were the great Baba Farid, Nizamuddin Auliya, Nasiruddin Chirag Delhi, Abdul Ganghohi. There is a long list of poets and writers who devoted their lives to composite culture (we have noted some of them in the earlier sections).

However, there is currently a lot of tension between these two communities in contemporary times. The maximum number of communal riots have taken place between them and after 6 December 1992 the Ayodhya syndrome has

brought into vogue the spectre of 'Hindutva'. These have cumulatively fanned communal belligerency. This tension has culminated itself with the recent riots in Gujarat. Secularist posturing of the state has taken a beating as never before with the politics of rightwing BJP with its ascendancy to power. So much so, the entire course of centuries of composite culture now seems utopian if no impossible.

So what does it forebode for pluralism in India? If one looks at it deeply one would realize that despite the hiatus of hatred and suspicion that exists between the Hindus and Muslims there is a serious strand of reassessment currently on. It is being realized that social conflict is associated/correlated with social change in transitional societies such as ours. Rather than finding fault in the religions themselves for fratricidal wars (there may not be any) between Muslims and Hindus one should note that the lacunae in the development process, the non-receipt of benefits of economic growth, the bypassing by the state deliberately or perchance of its citizens who are backward and vulnerable leads to mal-development which provokes social animosities, fears, tensions resulting in conflicts and violence.

Hence there is an emerging link which political scientists' believe had always existed in all societies', namely the causal linkage between economic inequality and caste (or class) or regional or linguistic violence as categories of the 'political' which almost always is a violence prone relationship.

Hence it is significant that a fresh look at caste and religious tension and internecine violence needs to be initiated or else we would not be able to enjoy the benefits of a pluralist co-existence. Although past history shows that the inter-relationship was not an easy one, and not bereft of conflict, it needs to be noted that in the contemporaneous times there are far greater sources of conflict than areas of

mutuality, brought about by technological changes, increase in development standards, more exposure and therefore more potential for disharmony.

Rasheedudin Khan has documented that increase in caste and caste prompted violence has taken place over a period of three decades. This has targeted individuals, kinship clans, and even communities involving use of criminality, even paid/hired private armies, and dacoits against political rival castes. This is more evident in the cow belt areas of Bihar, UP, parts of MP, Rajasthan and Tamil Nadu.

Caste Conflicts & Caste Prompted Violence

	1951	1981	Percentage growth
Murder	10343	22727	+ 119.73%
Kidnapping	5157	13833	+ 168.24%
Dacoity	7301	14626	+ 100.33%
Riots	20529	110361	+ 437.59%

Source: Table 1 in *Bewildered India*, Har-Anand (1995), p. 219.

Third Segmental Reality: Linguism

All over the globe land and language are some of the emotive issues exercising communities. They have become issues whereby identity of a particular race or people is associated and hence tend to be veering centres of social regeneration. In India, therefore, it is no surprise that our polyglot people find the influence of language too tenuous. In fact, of late it is found that much of our politics is conditioned by the questions of language and its associated corollary – regionalism. These have deep historical and cultural linkages and are quite difficult to ignore.

Any analysis of language and regional movements have to answer our largely cultural, historical and geographical parameters. We may be termed as the assigned example of a multination state, something which erstwhile Soviet Union used to proclaim. Hence sub-national psychological identities are but the natural outgrowth in the Indian context. India has a legion of languages. In 1927 the Linguistic Survey had identified some 1652 mother tongues including about 179 languages and 544 dialects. The Census of 1961 recorded that 1018 languages were spoken in India. Looking at that reality during the freedom struggle the Congress party in many resolutions demanded that administrative units should in future be constituted on the basis of linguistic lines. Andhra became the first linguistic state of India in 1953. In the aftermath of the States Reorganization Commission submitted its report in 1955 and it was decided to form new linguistic states in the south. The States' Reorganization Act, 1956 made a provision for the division of India into 14 states and 6 Union Territories.

It has been noted by observers that although the commission could visualize the emerging regional consciousness it failed to recognize the territorial dimensions of regionalism that ultimately gave rise to different regional movements. Thus regional divisions of India was done on the principle of linguism but the full import of its impact was not anticipated. It was left to time to discover its full implications.

Issues of National Language

An Official Language Commission was set up which gave its report in 1957. Its suggestion that the northern belt language namely Hindi should be the official language of India and should in due course of time replace English. The implication was that Hindi be used progressively in administrative matters, and day to day official business of the state, as also in

education. The Official Language which followed in 1962-63 gave status of law to these epistles. However looking at the fact that the southern states were very skeptical about the use of Hindi and very proud of their own language, culture and history they opposed it, and the government was forced to concede that the Act would not be implemented in a manner prejudicial to them. Nehru states that English would continue as the official language as long as non- Hindi speaking states wanted it to continue. However such palliatives have not been very successful in assuaging the feelings of the South. Violent agitations have marked the post Nehru period. There was a lot of turmoil even in the East.

Therefore an amendment was made to the Official Secrets Act in 1967 according to which now the decision with regard to the continuance of English has been left to the legislatures of the states.

Along with the issue of national official language another vexed issue was what language should children be made to study. The bordering area of state boundaries be it Belgaum, Telengana, Chakradharpur or Adilabd or Chandrapur have always been vocal about the issue. In 1956 the All India Council of Secondary Education recommended a “three language formula”. The National Policy of Education in 1986 has reiterated this.

The Sarkaria Commission Report also states that language has ‘given rise to considerable controversy and bitterness in the development of the political system of India... and notwithstanding the expiration of the period of fifteen years from the enforcement of constitution of India English language shall be used for the purpose of communication between the Union and the states which have not adopted Hindi as its national language.’ It is very apprehensive of linguistic controversies. It believes that politicization of

language has engineered crises which jeopardized the foundations of Indian democracy.

There is a groundswell of support afresh for the linguistic affinities of late. In Maharashtra the new political power that be, have reclaimed Marathi as their political weapon. All non-Marathi immigrants face the wrath of Shiv Sena. In Karnataka and Tamil Nadu a reassertion of domicility and mother tongue has again cropped up in the wake of the un-ending problems on the issue of sharing Cauvery waters. It portends a grim future. Whereas it cannot be denied that there is an emotional reason for letting the local languages grow and find political acceptability this should not lead to regional chauvinism as it is doing of late. The Sarkaria Commission was right in recommending that 'in the process of developing the official language, the forms, styles and expressions of various regional languages including our linkage language, English should not be discarded.'

A new initiative to tackle the issue has to be thought of in the future, one which respects all languages equally without imposing Hindi down the throat. Let's face it – Tamil is a very old language – its antiquity predating Hindi by many centuries. Why would anyone therefore be forced to accept it unless it is voluntary? And there needs to be reciprocity. Tamil should be as much appreciated in the Hindi heartlands if Hindi is to be respected south of the Vindhya, to cite just one example.

Regionalism – A Fourth Segmental Reality

Various regional movements have in the past emerged from the related issue of linguism. But there have been various issues, which were the causal indices of regionalisms. Basic to almost all such regional demands was the fact that there have been feelings of neglect atomization of identity or sheer

insensitivity of the Central Government to local needs, aspirations and requirements.

Each regional movement is different having a set of demands that are seigneurs. It always has some socio-cultural and historical dimensions. We would be charting out a few of these movements to put them in a perspective.

But before that, it is important to look at the qualitatively different spirit which regional movements have now deviated to. Despite the trenchant note of the regional movements in the decade of fifties 'and sixties' the DMK and Shiv Sena were maintaining a certain limit. They were asking for autonomy and stridently protesting against the linguistic policy of the Centre. In the West Bengal a different set of issues were the bone of contention between the state and the centre. Issues of fiscal independence and re-ordering of decentralization was the friction point. However, in the 1980s a qualitatively different momentum had taken ground. Strong movements have arisen in different parts of the country and regionalism is being acclaimed even by those who know it would lead to balkanization of India. It needs to be noted that the movements for an absolute regional autonomy are now headed by political parties which were outright communal and fractious; or are representing dominant castes of their region. The Akali Dal and the BJP are the new avatars of upholding 'state autonomy'. A diagnosis of these would show how hollow is their commitment to state autonomy.

Akali Dal has been a party with communal overtones. It exploits the sentiments of the Sikh masses by parading its concern to uphold Sikh identity but in reality aims at promoting the interests of the capitalist farmers of Punjab. It not only challenged the secular state in India by involving religion in politics but also has encouraged the culture of gun to achieve its demands... The Anandpur resolution of 1973

challenges the federal character and reduces the Central Government to the position of a spectator. It has championed the cause of capitalist farmers who have questioned the role of the Central Government to regulate an all India economy for the free development of the whole country. This class has benefited the maximum from the independence period. Punjab for all its worth is not comparable to Maharashtra or even Tamil Nadu. Industrialization has yet to take roots here. With a largely agricultural economy the dominant class is dependent on the state. The predominantly agrarian economy needs the state for marketing its agro produce as also setting higher support prices for its state procurement. This class has, therefore, supported if not sponsored all the activities of Akali Dal as also the wave of terrorism which was unleashed for more than a decade. Moderate elements like Harcharan Singh Longawal were killed and hawks like Bhindranwale deified. The upshot of the attempts of Akali Dal's regionlist upsurge was to get the best of terms for the advantage of its social class and to counter any challenge from the Centre to its superiority. Even in the threshold of the millennium Akali Dal's representative in the Union Cabinet turns the BJP leadership to get his demands accepted after getting the Agriculture ministry, namely to increase the state procurement prices for food-grains purchase by the state agencies like the FCI.

Outside of Punjab, the rich peasantry and political parties belonging to dominant castes are spearheading anti centre movements. "The ideology of rich peasants is divisive and the basic slogan of rich peasant movements is rural versus urban, agriculture versus industry and centre versus state government. The rich peasant movements are mystifying the rural reality by raising the issue of rural versus urban and decentralization versus centralization." In the rural areas the landless agricultural workers are involved in a serious struggle

with landlord and rich peasants for the payment of minimum wages to landless agricultural workers. In order to deal with the growing resistance of the exploited strata of rural society, the land lord and rich peasants would prefer State Governments which have more financial resources to benefit the rich peasants. The rich peasant political leaders and parties have a vested interest in the transfer of huge financial resources from the Central Government so that they can be invested in projects and programmes which are directly beneficial to the rich peasants. Therefore landlords and rich peasants have floated either regional parties or have joined some existing parties with a goal to scuttle the national planning process by making the central government weak or ineffective to intervene in the national economy”.

Separatist Movement

One can talk about the Telangana movement, regional movements in Tamil Nadu and Maharashtra which basically were in the seventies or earlier. In recent times only the Assamese movement, the Jharkhand movement, the demand for Uttarakhand and Bodoland may be categorized as regional movements. Almost all of them have different reasons for their emergence yet there is a common sharing of either linguistic alienation, overriding by the central government of its/their legitimate demands of regions or the growing need for development and economic activity in their regions so that people get jobs and enjoy the benefits of economic prosperity.

The creation of Uttaranchal, Chhattisgarh and Jharkhand as new states has to some extent taken care of regional aspirations and the plurality of development aspirations. But there are many other regionalist aspirations that have not been adequately mollified for e.g., the demand for

Gorkhaland, Bodoland, Harit Pradesh (as demanded by Ajit Singh's Kulak lobby in UP).

The above discussion has made it clear that regionalism is another dimension of pluralism. This segmental reality is a new pinprick for the pluralist ethos. The reason for its emergence as seen above has a lot to do with the way national politics is handling divergent and yet similar developmental needs of the pluralist society.

The Upshot

The above section analyzed the various dimensions of the essentially pluralist societal needs and demands which are peculiar to itself because of the nature of Indian pluralism. It has been demonstrated or alluded to that the four different segmental realities have the potential to threaten the basic characteristic of Indian plural state, yet they each have some restraining factors that are holding it back. These factors get their strength from India's plural character and the millennia of harmonistic co-existence.

It is, however, becoming increasingly manifest that the forces of consolidation are under strain and the various segmental realities are hard pressed to defeat their inimical influence.

Indian Pluralism – A Critique

Why pluralism? Why should one, in this age and day harp on the importance of the ethical ethos of multiculturalism? Well, for a variety of reasons. All across the globe there has been a universal interest in inter-cultural and religious dialogues. A recrudescence of faith has been commensurate with the increasing onslaughts of modernization, leading to the alienation from primordial loyalties of the past. Not merely

that, a re-evaluation of the worth of cultural ties is being done on a massive scale today.

In Davos (Jan 1999) at the World Economic Summit, Roman Herzog, then President of Federal Republic of Germany, had stated that he regarded the intensified dialogue among cultures as the most important thing to have occurred of late. According to him,

...every human being needs to have deep roots in his own history, culture and religion. A dialogue on values would help to increase confidence between nations, secure peace and should be regarded as a precondition for future policy.¹⁴

Herzog felt that

... Europeans still had to learn... that a deep and profound knowledge of completely different cultures might serve as a mirror... only those cultures which are able to identify and reflect the unspoken assumptions and limits of their own tradition are able to enter into inter-cultural dialogues. On the other hand, this dialogue might in return strengthen their own positions, for all cultures experience the same difficulties in reconciling traditions with modernity. In the age of globalization, an exchange about these difficulties offers new chances to all.¹⁵

As an offshoot, it is being also posited that the seeds of good democratic governance have to be found among the values of each culture and out of these elements democratic structures can be developed, almost everywhere. These have to be

developed within a particular culture and not transferred from one part of the world to another.¹⁶

Seen from this perspective, India's claims to be a heterogeneous, multi-faceted polyglot society provides perhaps the democratic *spirit-de-corpis* has not percolated, nor internalized in Indian society? Rather, the heterogeneity has manifested in a stratified society. There are perhaps various reasons for it. Some of such reasons are reiterated below.

A major shortcoming perhaps is the failure of secularism in the body politic. The constitution accords two basic meanings to secularism both of which are applicable namely that the State should accord equal respect to all religions and/or keep equal distance from all religions. The State in India has not adhered to this. It has intervened, according to the Hindutva forces, in the case of religions of Indian origins taking up the role of a reformer, but has refused to intervene in the case of religions of alien origin. They further allege that despite half a century and more of existence, it has failed to evolve a 'Uniform Civil Code', a promise made constitutionally. The dominant majority, according to them, has been critical of such a weak response of the state. Thus militant Hindus have characterized the state as a pseudo-secularist. Even many secular-minded people feel that India should have a Uniform Civil Code. They say that for the creation of cultural pluralism the framework of legal pluralism is mandatory. "Evidently, if cultural pluralism is the value to be upheld, a uniform civil code cannot be enacted or implemented. But there should be value consensus about the right of different religious communities to maintain their cultural identity, a civil code being an important instrument in this context... In such a situation, in the present case that of women... the state should effectively intervene to change such practices and there should be value consensus about the role of the state in such contexts."¹⁷ But there are many who feel that a Uniform

Civil Code goes against the concept of plurality. Moreover, it is against the constitutional rights of minorities to protect and practice their faith including personal laws.

A second shortcoming of the Indian state is that despite a plethora of measures undertaken since independence, the state has not been able to do away with disparities in the distribution of wealth, power and prestige among castes, religious and linguistic groupings. A certain amount of imbalance co-existing within reasonable parameters and emerging out of the process of competition in a regime of equality of opportunities is accepted. "However, when this imbalance is based on group affiliations it becomes illegitimate and contentious. In independent India, this imbalance has manifested in over and under representation in the bureaucracy, police force, armed forces and in prestigious occupations etc. and has become problematic.... The democratic value of equality of opportunity is being violated by Indian State according to some, through enunciation and implementation of the policy of protective discrimination. This criticism is voiced especially with reference to bourgeoisie-element among SCs and STs and OBCs. What is called for (in the context) is a value consensus in regard to the modes of recruitment and scrupulous adherence to them."¹⁸

Thirdly, in the Indian state some groupings and collectivities claim that they are nations and hence should have sovereign status. A variety of collectives, be it tribal, linguistic or religious have made such claims. At any given time there are any number of such claims. In the early sixties the demand of Telengana was made. The eighties saw the demand of Khalistan being made despite the creation of Haryana and Punjab from Himachal on ethnic grounds in the sixties. Post eighties one saw separatist groups demanding Bodoland, Gorkhaland, Uttaranchal, Jharkhand, Chhattisgarh, Vidarbha, Harit Pradesh and so on. The Indian State has recognized at

least three of these and constituted them as separate states'. In the process the Pandora's Box has been opened and it has led to vociferous politicking by others to demand such constitutional status. It may not be possible to give all such collectivities appropriate level of administrative and political autonomy. Hence the ground for conflicting pluralism is being opened. In such a context pluralism is deemed as creating dissension rather than harmony.

Fourthly, it is being debated today that there is cultural insularity despite the presence of so much cultural intermix. There is absence of meaningful interaction among the pluralities and hence there is little respect for cultural differences. Rustom Bharucha claims that "... cultural activities and culture are not an atavistic inheritance of primordial blood ties, bonds and loyalties, but a spectrum of dialogic relationships... (In India) there is a tacit indifference to other cultures, it is legitimized by the absence of any real infrastructure for the exchange of cultures across regional and linguistic borders. Tellingly there is no national infrastructure for the translation or learning of other regional languages in what is supposed to be the most multilingual nation in the world. Likewise, there are no structures for the actual collaboration of different cultural practices across regional states, apart from spectacles like Festivals of India and the Republic day parade, in which our diversities are summarily 'UNIFIED'. In the absence of an interactive, cognitive respect for cultural differences, therefore, our diversities cannot be assumed to constitute a plurality, which is better read as a secular with fulfillment, an *idee-fixe* which exists in our heads without being adequately mobilized or confronted in everyday life. Our diversities are marked, sealed, bordered, hierarchised and regionalized, consciously or unconsciously, with or without a defined ideology. Most of us would define our cultural identities as Indian by affiliating ourselves to specific regional geographies, cultures and languages which

are assumed to be coterminous. These regional identifications (Bengali, Marathi, Tamil etc.) which are predominant in Indian cultural discourse today, (thus) have been hegemonized, since independence by elite constituencies.”¹⁹

Bharucha has very significantly made a strong point, one which is hard to negate. The fact that real exchange of cultures has still to take place despite so much cultural presence is perhaps true. But properly speaking this is a phenomenon of the urbanized Indian living in cities and with little contact or at best negligible contact with the real India which, as the Mahatma said, lived in villages. However his point regarding the takeover by elite constituencies of the Indian cultural discourse is a very correct one and from which a real struggle has to be waged by the subalterns to free it.

Conclusion

Tracing the contours of India's pluralist identity can be a frustrating exercise. Certainly so when one has to limit oneself to a given length. Be so, as it may, an attempt has been made to outline in this paper the strong historical lineage that it enjoys, close to a millennia, if not more, it has been pointed out that despite the fractious course of multiculturalism in India there have been very significant harmonizing influences as well that have lend strength to the unity, tolerance and the spirit of commonality of India – which as noted above, is its uniqueness. Despite the great progress of technology and information that the society has made, slowly corroding India's great legacy of multiculturalism (it is the conviction that with this rational upsurge people have become insular to their cultural legacy) today in the 21st century one can find great examples of thriving tolerance to multiculturalism. Even today, one finds living instances which are currently being practiced as part of a living and growing tradition. For example the

‘chadimubarak’ of the holy Amarnath shrine is kept with a Muslim family as it has been done for generations. The Sufi *dargahs* of Ajmer, Nizamuddin Auliya or of Lal Ded in Kashmir attract people of all faiths. In Jaggannath *dhams* in Puri, the choicest *bhajans* sung before the lord are those penned down by a Muslim devotee Salbeg.

This then provides the hope for India. No doubt we are in the throes of violent attacks on pluralist ethos, never so virulent before as it is now; and the segmental realities traced above have every possibility of tearing it down. Yet the civilizational continuum of intercultural give and take that still exists gives rise to optimism that perhaps these would prevail once more. However, this should not lead us to a false sense of arrogance or complacency that nothing needs to be done or rectified. There are at least four areas outlined in the previous section which demand serious rethinking and action before one can resuscitate multiculturalism.

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Marginalization of Muslims in Rural India

Abdul Matin

Conceptual Framework

There are various dimensions for studying the problems of Muslims in India. It appears that religious, ethnicity, caste, family, kinship, marriage and ritual were some of the major dimensions for studying the problems of Indian Muslims¹ in the 1960s, 1970s, 1980s and 1990s (viz. Matin, 1996; Ahmad, 1981, 1976, 1973; Ansari, 1960). However, social scientists have not sufficiently evinced their interests in studying the problems of Muslims from the 'rural' dimension. It has been argued in this paper that majority of the Muslim population was living in the rural India in general and northern states in particular at the close of the twentieth century. Therefore, the significance of 'rural' dimension in studying the problems of Indian Muslims must be realized. This is further crucial in many respects because a bird's eye view of *Aaine-Akbari* (Blochman, 1927) and other sources viz. Athar Ali's (1997; 1985) magnum opus entitled *The Mughal Nobility under Aurangzeb* indicate that *asbraf* Muslims had privileged position during Mughal India in access to land in terms of *zamindars* and similar high position. This practice continued during the British period well reflected in Buchanan (1928), GoI (1908), and similar reports and so called "blue books" (blue being the colour of the British *raj* publications on India) and even after independence (Matin, 1989). Inferior economic, educational and social status of Muslims than the Hindus and in some instances even lower than the *dalits* and *adivasis* are recognized by the Government of India in spite of six decades of developments (Sachar, 2006).

Muslim Preponderance in Rural India

Muslims, the largest minority group in India, constitute 13.4% (137 million) of the total population according to the

2001 census². However, unofficial estimates show a far higher figure of 20% or even more supposedly or allegedly discounted in censuses. The largest concentrations, 64.6 million or over 47% of all Muslims in India, live in the three states of Bihar (13.7 million) (16.5%), Uttar Pradesh (30.7 million) (18.5%) and West Bengal (20.2 million) (25%), according to the 2001 census. Muslims represent a majority of the population only in Jammu and Kashmir (67% in 2001) and Lakshadweep (95% in 1991). High concentrations of Muslims are found in the eastern states of Assam (31%) and West Bengal (25%), and in the southern states³ of Kerala (25%) and Karnataka (12.2%). India has the third largest Muslim population (after Indonesia and Pakistan). It has also the third largest Shia Muslim population (after Pakistan and Iran) in the world.

Muslims⁴ in India constituted (101.60 million) 11.67 per cent to the total population according to the 1991 census. In Bihar, Uttar Pradesh and West Bengal Muslims consisted of 28.43 per cent (12.79 million), 17.33 per cent (24.11 million) and 23.61 per cent (16.08 million) respectively of the total population. In Lakshadweep, the total Muslim population is 48765, which happens to be 94.31 per cent of the total population.

Muslim population in rural India state-wise based on the 1991 census has been shown in table-1. It shows that out of the total 101.60 million Muslims, almost 65 per cent population lives in rural India. It further shows that out of 25 states only two states (Goa and Mizoram) have less than 30 per cent Muslim rural population and six states (A.P., Gujarat, Karnataka, M.P., Maharashtra and Tamil Nadu) are having 30 to 50 per cent population living in rural areas. Rest of the states have 50 or more than 50 per cent rural Muslim population. The table 1 entitled "Muslim Population in Rural India, 1991" shows total Muslim population and total rural

population state wise (actual number and per cent both). It further shows the per cent of Muslim population to the total population state wise.

Table-1**Muslim Population in Rural India, 1991**

S. No.	India/State	Total Muslims	Rural Muslims	%RM#	M%to TP*
	India	101596057	65563695	64.53	11.67
1	A.P.	5923954	2478065	41.83	8.91
2	Arunachal	11922	6395	53.64	1.38
3	Assam	6373204	6036072	94.71	28.43
4	Bihar	12787985	10796567	84.43	14.81
5	Goa	61455	16913	27.52	5.25
6	Gujarat	3606920	1497895	41.53	8.73
7	Haryana	763775	687853	90.07	4.64
8	H.P.	89134	78618	88.20	1.72
9	Karnataka	5234023	2329321	44.50	11.64
10	Kerala	6788364	4984572	73.43	23.33
11	M.P.	3282800	1185978	36.13	4.96
12	Maharashtra	7628755	2521561	33.05	9.67
13	Manipur	133535	94236	70.57	7.27
14	Meghalaya	61462	53470	87.00	3.46
15	Mizoram	4538	732	16.13	0.66
16	Nagaland	20642	12438	60.26	1.71
17	Orissa	577775	350870	60.73	1.83
18	Punjab	239401	144850	6.51	1.18
19	Rajasthan	3525339	1789947	50.77	8.01
20	Sikkim	3849	2252	58.51	0.95
21	Tamil Nadu	3052717	1128940	36.98	5.47
22	Tripura	196495	184647	93.97	7.13
23	U.P.	24109684	15515255	64.35	17.33
24	W.B.	16075836	13545929	84.26	23.61
25	J & K				64.19

(Source: Census of India, 1991)

RM = Rural Muslims; * M%toTP = Muslims Percentage to Total Population.

Table 2 shows that in the union territories only in Lakshadweep over 94 per cent Muslim population lives in rural areas. The contemporary economy and development of Lakshadweep has been well examined by Jeromi (2006).

Table-2
Muslims in Rural Union Territories, 1991

S. No.	India/State	Total Muslims	Rural Muslims	%RM#	M%toTP*
1	A&N Island	21354	12484	0.58	7.61
2	Chandigarh	17477	2660	0.15	2.72
3	D&N Haveli	3341	2265	0.68	2.41
4	D&Diu	9048	2334	0.26	8.91
5	Delhi	889641	67972	0.08	9.44
6	Lakshadweep	48765	21704	0.45	94.31
7	Pondicherry	52867	10800	0.20	6.54

(Source: Census of India, 1991)

RM = Rural Muslims; * M%toTP = Muslims Percentage to Total Population.

It is evident from the above two tables that majority of the Muslim population lives in rural India⁵. Bihar has the highest number of Muslims in India after Uttar Pradesh, and is characterized by poverty, inequality, indebtedness and migration. Muslims rank among the poorest communities in the state, many of them being descendants of 'middle; and 'low' caste converts. According to 2001 census, the Muslims in Bihar numbered 13.72 million, constituting 16.5% of the State's total population and 9.9% of the country's total Muslim population. 87% of the Muslim population in Bihar lives in rural areas, and the rest in towns and cities. A survey (ADRI, 2005) on the socio-economic condition of Muslims

reveals that there are 43 castes divided into upper castes (viz. Syed, Shaikh, Pathan and Malik) constituting 40.4 per cent of the Muslim population, middle castes (viz. Ansari) constituting 25 per cent of the Muslim population and lower castes (viz. Bakkho, Bhatiara, Chik, Churihara, Dafali, Dhunia, Dhobi, Idrisi) constituting 34 per cent of the rural population. The report is based on the 1991 census report of the Muslim population. The report shows that 49.5 per cent of rural Muslim households fall below poverty line. 19.9 per cent among them are acutely poor. The NSSO survey found that 44.3 per cent of Bihar's rural population lived below the poverty line.

ADRI Report

The ADRI (2005) survey shows a high degree of migration among Muslims in Bihar than the general population. There are 63 migrants for every 100 Muslim household in rural Bihar. The high percentage of migration among Muslims is a result of the overall poor socio-economic conditions. Two out of three Muslim households in rural Bihar send at least one of their working members away to earn. Most of the Muslim migrants are males and aged 28.5 years in rural areas. As a result of high migration of men, 10.5 per cent women head their families in the patriarchal rural areas having implications on the sociology of gender. Migration is particularly high among Muslims in Gaya, Aurangabad, Vaishali and Darbhanga districts. More than 40 per cent of Muslims in Siwan and Gopalganj districts go to Gulf countries to earn a living. The average annual remittance by migrants from rural areas is about Rs. 1,350 per month.

The ADRI survey shows a very high degree of landlessness among the Muslims living in rural Bihar, as well as a high ratio of Muslims with very small landholdings. Only 35.9% of the Muslim households in rural Bihar possess any cultivable

land, the corresponding figure for the general population being much higher, at 58%. The percentage of rural Bihari Muslims actually operating some land is even lower, at 28.8%. In other words, for about one-fifth of the land-owning Muslim households the amount of land owned is so marginal that they have no option but to lease their land to a cultivator with larger landholding. As a result, nearly three-fourth of the rural Muslim households is dependent largely on agricultural wage employment and, to a smaller extent, on whatever limited self-employment is available outside the agricultural sector.

According to the survey 28.4 percent of rural Muslim workers are landless labourers, and on an average, they find work for only 230 days in a year. Prevailing average daily wage rates for a whole day's labour are pathetically low (Rs. 28 in the off-season and Rs. 32 in the peak season), which means that a labourer's mean monthly wage earning is less than Rs. 600. Making living conditions even more difficult for them is the fact in more than half the working days they have to move outside the village for work.

Overall, this means that Bihari Muslims are characterized by a high degree of poverty and deprivation. Their per capita income is estimated at Rs. 4640 in rural areas. 49.5% of rural Muslims in Bihar are estimated to live below the poverty line. 41.5% rural Muslim households are said to be indebted. An average outstanding loan is Rs. 6790, which, as a percentage of the annual income, works out to be 21.5%.

Muslim marginalization in rural Bihar is more apparent when one considers the size of their landholdings. The Agricultural Census of Bihar 1990-91 shows an average landholding as 2.32 acres. The survey finds the average size of landholding of cultivating Muslim households to be much lower, at 1.91 acres. Further, barely 8.2% of the Muslim households in rural

Bihar have landholdings over 2.0 acres. The percentage of Muslim households having at least five acres of land (generally considered to be the minimum size of an economic holding) is negligible. The survey also finds that although land ownership is much lower for rural Muslim households than for the general population, relatively better irrigation facilities available to the former in some districts that partially compensate for this disadvantage.

Rural Muslim poverty in Bihar is also reflected in the low level of other farm-related assets. Only around a fourth of the cultivating households own a plough and just 3% a tractor, which is less than 1% of the total number of rural Muslim households. Only 10.4% possess pump sets and 56% own some livestock, a figure almost 5 per cent less than that of the general population. For Muslim households in rural Bihar, the study shows, not only is their average land ownership less than that of the general population, but they also are experiencing a slow process of land alienation. The additional amount of land bought by rural Muslim households during the last five years (2.4 percent of the household reporting buying of some land, with an average of 0.32 acres of land per buying household) is less than the land sold by them (2.5 percent of the households reporting selling of some land with 0.49 acres of land per selling household).

Many Muslims living in rural Bihar belong to artisan caste communities. However, barely 2.1% of rural Muslim households are engaged in artisan-based activities. This indicates that in the face of competition from the modern manufacturing sector, traditional artisan-based activities have fast disappeared, forcing artisans to become landless agricultural labourers or else to migrate to cities to work as manual labourers. The average value of implements used by Muslim artisan household was found to be a mere Rs. 2200, and the average annual income from artisan-based activities

for such families is only a little more than Rs. 16000. This suggests that many rural Muslim artisan families live below the poverty line.

The process of Muslim marginalization in rural Bihar is more alarming due to its poor performance on human development during 1981-2001. Ghosh has pointed out that the possibility of virtuous or vicious cycles of development, with good or bad performance on Human Development and Economic Growth reinforcing each other over time. He has concluded that 7 out of 15 states were in the vicious cycle category in 1981, remained in that category throughout (1981 to 2001). These states include the Bimaru(sick) states (Bihar, MP, Rajasthan and UP), AP, Orissa and Assam. These states started with very low levels of HDI which possibly acted as constraint on growth potential, and their low per capita SDP prevented them from generating necessary resources for achieving improvements in Human Development. None of these states could manage to get out of the vicious cycle of development during 1981-2001 (Ghosh, 2006: 3326-3327). Therefore, he has suggested that the Human Development induced growth process has to be strengthened by allocating more resources to social sectors like education, health services, sanitation, drinking water, etc. with the ultimate objective of lifting the states from vicious to virtuous cycle category (Ghosh, 2006: 3329).

In this background, I would like to advocate for an all India level data generation on the magnitude of Muslim peasantry with a focus on the intensity of “family labour” and “hired labour” in agriculture should be carried out. This data bank will not only enhance our understanding of the process of Muslim “depeasantization”: a process by which peasants are forced to become agricultural labour, but also their estimation in order to devise desired development programmes including human development. This is a pre-requisite for

developing a rural perspective for the satisfactory human development of the Muslims in rural India. The proposed agenda needs attention for future research in the context of globalization and its demonizing and dehumanizing social exclusion process in the globe especially in the southern rural part of the world. Social exclusion is a process witnessed by rural Indian Muslims in an unprecedented manner. Only future research will precisely capture this dimension of uneven development having implications for human development (Sen, 1987; 1985; Dreze and Sen, 1999) in pursuit of “social justice” and “freedom”.

Endnotes

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1. A bird’s eye view on sociological studies on Indian Muslims reveals that rigorous research on Indian Muslims lack the rural dimension. It has been argued in this paper that social scientists should evince their interests in studying the problems of Indian Muslims from rural dimension.
2. This paragraph is mainly based on ‘Population Statistics’,
http://en.wikipedia.org/wiki/Islam_in_India.

3. Muslims are generally more educated, urban, integrated and prosperous in the Western and Southern states of India than in the Northern and Eastern ones. This could be due to the Partition when the more affluent and educated population migrated over the border from North India to Pakistan.
4. Table 1 and table 2 have been tabulated from the 1991 religious Census data.
5. In this background, if we look at the rural-urban divide from the perspective of Michael Lipton (1977) that there has been urban bias in Indian planning since its inception. This has been the main reason for the underdevelopment in rural India. It also implies that rural area in India has been a neglected area where majority of the Muslims have been living in contemporary India. The contention of Lipton gets further buttressed when we look at the recent human development data of Indian states (Ghosh, 2006) (UNDAP, 1990).

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Police and Minorities in India

Aman Mohd. Khan

India is a secular, socialist and democratic republic having a composition of different minority communities dwelling in its womb. It is the birthplace of some major and ancient religions of the world and also some other famous religions have established themselves on its soil and become a part and parcel of its family. There has been considerable interaction between various communities residing in India. There are eight major religious communities residing in India namely: Hindus (82.2%), Muslims (13.8%), Christians (2.6 %), Sikhs (2%), Buddhist (0.7%), Jains (0.5%), Zoroastrians (0.3%) & Jews (0.1%). These are the approximate composition of various religious communities in India and there are also Indigenous people or Adivasis, whose beliefs and rituals are uniquely associated with their forest and ancestors, and they constitute around 7.8% of the population though these indigenous communities have close affinity with Hinduism; a sizeable population among them are converted to Christianity and Islam too.

India is a country governed by a single constitution and her constitution contains detailed provisions about the protection of individual rights. The constitution strongly advocates for the “equal protection of Law & equality before the law” (Under Article 14) and the courts have the power to declare any law as invalid, passed by the parliament or the state assemblies, if they contravene the basic norms of the Constitution. Articles 25 to 30 in part III of the constitution extend three guarantees to all the categories of minorities – religious, cultural and linguistic. Article 25 related to the freedom of conscience and religion provides that all persons are equally entitled to profess, practice and propagate religion subject to public order, morality, health and other provisions of that part. The Indian state is secular in the sense that it is meant to treat all the religions equally and keep itself distant

from every one of them. Article 51-A of the constitution imposes a positive duty on citizens 'to promote harmony and the spirit of common brotherhood amongst all people of India transcending religion, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women...'

Role of Police and Minorities

The Police in India have the obligatory responsibility to protect the life, property, dignity of all the citizens of this country irrespective of their religion, region, caste and language as they are the executives who have to enforce the law of the land fairly. In spite of all these provisions in India, there is a widespread feeling today that the rights of minorities stand unprotected. Despite the safeguards provided in the constitution and the laws in force, there exists a feeling of inequality and discrimination among the minorities. There is a general feeling that the police, who are meant to protect them impartially, actually play a blatantly partisan role against them especially during the period of communal violence anywhere in the country. Justice Madan Commission report on Bhiwandi riot (1970) observed:¹ 'Discrimination was also practiced in making arrest and while Muslim rioters were arrested in large numbers, the police turned a blind eye to what the Hindu rioters were doing. Some innocent Muslims, who went to take shelter at Bhiwandi Town police station, were arrested instead of being given shelter and protection'.

Justice B.N Srikrishana made the following observations in his report on Bombay riots of 1992-93²: 'The Commission is of the view that there is evidence of police bias against Muslims which has manifested itself in other ways like the harsh treatment given to them, failure to register even cognizable offences' That there was a general bias against the

Muslims in the minds of the average policemen was evident in the way they dealt with the Muslims, and even accepted by V.N Deshmukh, an officer of the rank of additional commissioner.

Similarly, the Sachar Committee Report expresses the same conclusion on the relationship between Muslims and Police in India. Concern was expressed over police highhandedness in dealing with Muslims. Muslims live with an inferiority complex as “every bearded man is considered an ISI agent”; “whenever any incident occurs Muslim boys are picked up by the police”³ and fake encounters are common. In fact, people argued that police presence in Muslim localities is more common than the presence of schools, industry, public hospitals and banks. Security personnel enter Muslim houses on the slightest pretext. The plight of Muslims living in border areas is even worse as they are treated as ‘foreigners’ and are subjected to harassment by the police and administration⁴”.

The response of the police towards the appeal from desperate victims, particularly Muslims, was cynical and utterly indifferent. On occasions the response was that they were unable to leave appointed post; on others, the attitude was that one Muslim killed was one Muslim less. Police officers and men, particularly at the junior level, appeared to have an inbuilt bias against Muslims, which was evident in their treatment of the Muslim suspects and victims of riots. The treatment given was harsh and brutal and, on occasions, bordering on inhumane, hardly doing credit to the force. The bias of the policemen was seen in the active connivance of police constables with the rioting Hindu mobs by adopting the role of passive onlookers on such occasions, and finally, in their lack of enthusiasm in registering offence against Hindu rioters even when the accused were clearly identified.

While there are a number of useful studies on Hindu-Muslim violence in India, the report of Vibhuti Narain Rai is important as it was authored by a serving senior police officer of the state of Uttar Pradesh, which has a record of persistent Hindu-Muslim violence. Mr Rai studied the role of police in the Hindu-Muslim violence during the pre-independent and post-independent periods in Kanpur (1931), Ranchi (1967), Ahmedabad (1969), Bhiwandi, Jalgaon (1970), Banaras (1977), Jamshedpur (1979), Moradabad (1980), Meerut (1990), Bhagalpur (1989), Ayodhya (1992) and Mumbai (1992-3) in his work 'Perception of Police Neutrality during Hindu-Muslim Riots in India'.

His main findings with respect to the role of the police in these cases were as follows:

- i) The police behave partially during most riots. In all the riots under discussion in the study, the police did not act as a neutral law enforcement agency but more as a 'Hindu force'.
- ii) Perceptible discrimination was visible in the use of force, preventive arrest, and enforcement of curfew, treatment of detained person at police stations, reporting of facts and prosecution of cases registered during riots. Muslims by and large consider police as their enemy rather than their protector.
- iii) An average policeman does not shed his inherent biases and predetermined beliefs at the time of his entry into the force, and this is reflected in his bias against Muslims during communal violence.
- iv) The perception by Hindus and Muslims of the police during communal strife is diametrically opposed. Hindus view policemen as their friend while Muslims as their enemy.
- v) The expectation of Indian society from an average policeman is communal. The policemen are believed to

- be a protector of the interest of the majority community.
- vi) The inimical relationship between police and the Muslims make them over-react in a confrontation like situation⁵.

Thus, there is clear evidence from various studies that the role of police, particularly during communal violence has been far from desirable, rather it is ironical. It is a shameful to state that a large number of police officers have not just failed to control riots but a number of them have actually given culprits their active support.

Similarly in 1982, N.C Saxena, the then joint secretary of the National Commission for Minorities reported after inquiring in Meerut riots⁶: 'The district administration best perceived threat to public peace only from Muslims...the order from the senior officers in the district, to the police could be summarized in one phase: Muslims must be taught a lesson; the Provincial Armed Constabulary (PAC) which is a state controlled armed unit responsible to maintain law & order and the civil police have faithfully implemented this policy.

Carrying out a study on the attitudes and perception of the magistrates and senior police officers about various communities, Saxena made the following conclusions:

- a) Muslims are excitable and irrational people who are guided by their religious instincts. Whereas Hindus, on the other hand, are law abiding and cooperate with the police in controlling communal riots.
- b) Riots are started by the Muslims and they invariably take the first opportunity to strike at the other community and the police.
- c) In all the previous riots in the country before the current riot, Muslims took the upper hand which

- resulted in huge loss to the Hindu community. Therefore there is a moral justification if in the current riot, casualties on the Muslim side are heavier.
- d) State government attaches a great deal of importance in ensuring quick control of rioting. Since Muslims are aggressive, it is necessary that they are taught a lesson through arrest, firing and of third degree methods.

The study further reports that ‘the PAC treats Muslims as monsters, criminals and suspects’. It has led to loss of faith among Muslims in the fairness of administration. They have started patronizing anti-social elements for their defense and in the recent riots, attacks on police from the Muslims have also increased. Police-Muslim confrontation, if not checked, may lead to terrorism just as in some countries like Thailand and Philippines. The PAC image as an anti-Muslim force dates from the 1980s, not earlier. In fact three Muslim officers headed it; S. U Ahmad (1953-54), S.A Alam (1962-63) and S.A Abbas in 1972. According to N.C Saxena “It was the (post-1947) the clear policy of the UP government not to recruit any Muslim to PAC. This was not the fault of the PAC but the Muslims took a dislike to the force since they were kept out of it. The ban was removed later but then Muslims could not be recruited in sufficient numbers because recruitment was made subject to competitive tests in which Muslims failed badly. Recently a number of Muslims have been recruited in the UP Police by giving them highly inflated marks in the interview. Now they form nearly 5 percent of the PAC”⁷

The Sixth report of the National Police Commission (NPC) in 1981 looks into the communally prejudiced attitude and behaviour of the Police and the problem of social composition of the Police force, which makes the following observations⁸:

'We also heard of stringent criticism from many responsible quarters that the police do not often act with impartiality and objectivity. Several instances have been cited where police officers and men appears to have shown unmistakable biases against a particular community while dealing with the communal situation. Serious allegation of high handedness and other atrocities, including such criminal activities as arson, looting, molestation of women etc, have been leveled against the police which is expected to protect the citizens. There is evidence to suggest that in one riot in Muradabad on 13 August 1980, men of the Provincial Armed Constabulary (PAC) opened fire on about 40,000. Muslims while they were at their Eid prayers. No one knows exactly how many people died. What is known is that the incident at Moradabad was not a Hindu-Muslim riots but a calculated, cold-blooded massacre of Muslims by a rabidly communal police force which tried to cover up its genocide by posing it to be a Hindu Muslim riot⁹. The terrible Aligarh riot began with a series of incidents that led to the temporary imposition of curfew. In the most serious such incident, a Muslim crowd was stopped by the PAC under circumstances that are disputed, a fracas developed and two or three people men were killed. Curfew was then imposed, but the PAC, allegedly enraged by what its defenders claimed was an attack upon its forces, then dropped "all pretension of impartiality" allowed Hindu mobs to kill Muslims while the PAC-men themselves killed nine Muslims, all during curfew¹⁰. All reports from Ayodhya on 6 December, 1992 of demolition of the Babri Mosque and of subsequent riots at a number of places in India pointed out the failure or omission and commission of the police and paramilitary forces: on the one hand it remained passive spectator of unlawful demolition of Babri Mosque and of assaults on media persons, on the other hand it became an instrument of terror, shooting people to kill, not only in street alone but chasing and hunting them from their houses in Delhi, Bombay, Bhopal, Surat and other places in

UP, MP, Gujarat and Karnataka¹¹. In another incident, it is alleged that a group of anti-social elements was able to brutally kill many persons, including women and children, while the Police were present in the vicinity. In yet another recent incident it has been alleged that the force ran amuck after one of their colleagues was stabbed. All these incidents are only symptoms of the underlying malaise. The failure of leadership coupled with the low morale of the force leads to such undisciplined reaction from the force. It has been clearly mentioned in the Prime Minister's 15 point programme for Minorities that "the State Governments are being advised that in the areas which have been identified as communally sensitive and riot-prone, District and Police officials of the highest known efficiency, impartiality and secular record must be posted. In such areas and even elsewhere the prevention of communal tension should be one of the primary duties of DM and SP. Their performance in this regard should be an important factor in determining their promotion prospects" and also "good work done in this regard by District and Police officials should be rewarded"¹².

Also in the anti-Sikh riot of November 1984, which was followed by the assassination of the Prime Minister Mrs Indira Gandhi by two of her Sikh bodyguards, the death toll of the Sikhs killed in Delhi alone was 2,733 or one in every 30 seconds. This was also one of the most well organized communal riots in connivance with the ruling party. Despite the submission of reports by three commissions of enquiry-Justice Ragannath Misra Commission Report (1987), Jain-Agarwal Committee report (1990) and Justice R.S Narula Panel report (1994), all of which had indicted 72 police officers, two union ministers and a Congress MP, no prosecution has been initiated against any one of them so far. It is well known that local Congress party MPs instigated the Delhi carnage with the passive complicity of the security forces¹³. Also there are some sporadic incidents of violence

against the Christians too, for their missionary activities. In one infamous incident Graham Staines, an Australian missionary, was brutally torched to death along with his two sons inside a jeep in the state of Orissa.

In the year 2002 India experienced its greatest human rights crisis in state-orchestrated violence against Muslims in the state of Gujarat that claimed at least two thousand lives in matter of days. On Feb 27, 2002 an allegedly Muslim mob attacked a train at Godhra railway station carrying Kar Sevaks from Ayodhya on board in which 58 people belonging to majority community were burnt to death though the investigations are still going on for this incident. In the days to follow Government officials and local media branded the Muslims as terrorist while armed gangs were set out on a four day retaliatory spree. In the post-Godhra violence Muslim homes, places of worship and business were systematically destroyed. Hundred of women and girls were gang-raped and sexually mutilated before being burnt alive. Police is the only main visible organ of the state on whose shoulder responsibility lies to control these riots but the role of police in controlling all this lawlessness is highly objectionable and they on many instances abetted the rioters to do their act fearlessly. Many victims of the violence have reportedly said that they heard the slogan from the rioter that “*Yeh Andar ki Baat Hai Police Hamere Sath Hai*”¹⁴ (This is secret matter that police is with us) attackers roam with impunity threatening more violence if any one dares to speak against them.

The Gujarat pogrom poignantly brings out the malice that is engulfing police of our country in a communally charged atmosphere. During the continued communal violence in Gujarat, Chief Minister Narendra Modi is reported to have said: “I am absolutely satisfied with how the police and the government have handled the backlash. I am happy the violence has been largely constrained”¹⁵. But the violence that

continued unabated proved the Chief Minister wrong. A conscientious civil servant says that “any riot like situation can be stopped within three hours if there is a political will among the civil and political administration”. It is also pertinent to note here that while there were policemen, both in the higher and lower ranks, functioned as communal agents during the riots, there were also some police officials who have made us to feel proud by firmly upholding the law of the land like Kutch SP Vivek Srivastava, Ahmedabad DCP Praveen Gondia, Bhavnagar SP Rahul Sharma, Banaskantha SP Himanshu Bhatt and Bharuch SP M.D Antani; they tried earnestly to protect the minority community and their establishments in the Gujarat-2002 frenzy. Rahul learned that a mob of around 200 men armed with swords, trishuls, spear, stones, burning torches, petrol bombs and acid bottles, was about to attack a madarssa with around 400 small Muslim boys between the ages of 12 and 15 Rahul rushed there and found a police force of around 50 people . Seeing that the force was hesitant to open fire on the armed mob, Rahul himself took the rifle from a fellow constable and opened fire. As some attackers fell to police bullets, the crowd stopped in its track and faded away.¹⁶ However, these police officers were penalized and harassed in different ways by the ruling political establishment and they were presented bangles to humiliate them allegedly by the people belonging to Sangh Parivar¹⁷. Also there was one IAS officer of M.P cadre, Mr Harsh Mander who after witnessing the highhandedness of the police and politicians in brutalities was so enraged that he did not think it fit to continue in such service and resigned in sheer disgust from the post and launched an NGO *Aman Biradari* for the relief and rehabilitation of the victims of communal violence of Gujarat and elsewhere. Among the twenty-seven were five senior officers who were among the very few police chiefs in the state who actually ensured the VHP-led mobs were dispersed and unable to carry out any violence¹⁸. It is not the Harsh Mander alone who write about

such role of the police in Gujarat carnage. Several others including some top officials themselves have also condemned the police for what it did in Gujarat. Julio Reibero, ex-Director General of Police, Maharashtra, even called them “eunuchs” for having attacked the helpless people including old men, women and children¹⁹.

Representation of Minorities

There is a debate going among the legal experts, intellectuals, social and human rights activists that if the Police force in our country, which is not proportionally represented, should have the right proportion of people from all the communities especially from minorities then it can be one of the remedies for minimizing the biased and brutal attitude of police against minorities. This will also help in shedding the biased attitude as well as ill will against the minorities but that is a real remedy for the problem or not a debatable issue. According to Sachar Committee report the percentage of Muslims in the IAS is around 3% whereas in IPS they are 4%²⁰ and the share of Muslims in all security agencies is again around 4%²¹. Justice V.M Tarkunde recommended reservation for Muslims in the recruitment of Police constables and officers, as well as in Para-military forces and intelligence gathering and prosecuting agencies to the extent required for neutralization of communal biases in all the wings of law-enforcement machinery. Most of the intelligence agencies and paramilitary forces in India do not mirror the diversity of the national population. According to renowned journalist Inder Malhotra “as a matter of deliberate policy, the Government has been virtually excluding Muslims from what are called sensitive and strategic services, such as certain section of the armed forces, some departments of the police, especially Intelligence, and the like. Since 1970, there seems to have been some change in this policy but not enough”²². For example, in 1993, the Union Minister of State for Home confirmed that there has

not been a single Muslim in the RAW (Research and Analysis Wing) and IB (Intelligence Bureau) personnel²³. Contrary to the principles of secularism enshrined in the constitution, the government does not have any Muslims working in the Intelligence Bureau (IB) and the RAW”, according to Murali Krishnan as well²⁴. In the words of a former CBI director, Vijay Karan “It is sort of an unwritten code. Everybody knows about it and it is accepted as a fact”²⁵.

The issue of socially diverse composition of the police force and other institution of Governance is the most neglected one in the country. Under the false plea of secularism, community-wise data are generally not published. But there is no denying the fact that Muslims are under-represented in most central and state forces at all levels and in all the area of operation. One of the earliest advocates of police diversity was the senior journalist, Khuswant Singh, writing after the police complicity in the Ahmedabad massacres of September, 1969, he recommended: “The only thing to do is to draft substantial numbers of Muslims, Christians, Sikhs, Anglo-Indians and Parsis into our police forces. Let the police force of Kashmir be largely non-Muslims, that of Punjab, Haryana be largely non-Sikh and non-Hindu. In all other states, between 20-25 % should be Muslims, Christians, Sikhs, Parsi and Anglo-Indian”²⁶. Syed Shahabuddin, a former MP and an articulate politician, similarly urged the government to raise Muslim percentages from the presently meager number to their nearly 12% proportion in the national population²⁷. Apart from the Durban declaration and POA 2001, to which India is a party, which require socially diverse composition of all institution of governance especially state forces and the judiciary, the National Commission to Review the Working of the Constitution (NCRWC) in its report (2002) has made strong recommendation for carrying out ‘special recruitment of persons belonging to the under-represented minority

communities in the state police, para-military forces'. The commission holds the view that 'this will instill confidence among minority populations as well as help them to develop responsible attitudes towards security issues confronting the nation'²⁸. In 1983 Prime Minister's Fifteen Point Programme on Minorities emphasized the need for such special recruitment. The following were its specific recommendations:

- (i) In the recruitment of Police personnel, state government should be advised to give special consideration to minorities. For this purpose, the composition of selection committee should be representative.
- (ii) The central government should take similar action in the recruitment of personnel to the Central Police Forces.

The National Police Commission (NPC) also felt that there is a strong case for encouraging the recruitment of members of the minority community and other weaker sections at various levels in the police force.

The following observation of the NPC needs attention²⁹:

'We would reiterate here our views already expressed in para 19.30 of our Third Report that the composition of the personnel in the police system as a whole should reflect the general mix of communities as exists in society and thereby command the confidence of the different sections so that the system would function impartially without any slant in favour of any community. In this regard the senior officers, particularly in position of command have an important role to play. If they act in a correct and impartial manner and also discourage emphatically any partial or biased behavior on the part of their subordinates, they can by their exemplary

behaviour instill confidence in the minds of the people regarding the ability and impartiality of not only themselves but of the entire force’.

The Home Ministry’s guidelines for government of all states and union territories to promote communal harmony issued on 22 October 1997 makes the following recommendations:

‘It has been commonly observed that the presence of minority community members in the police force deployed in communally sensitive areas goes a long way in winning the confidence of minority communities. This is of vital importance. The following steps which were recommended from time to time, should be taken earnestly:

- (1) Launching of special campaign to recruit more members of minorities in the state police force.
- (2) Creation of composite battalions of armed police which should include members of all religious communities including SC\ST for exclusive use to maintain communal peace and amity in the sensitive areas.
- (3) Starting of special training\orientation programmes for state police force with a view to maintain communal harmony.

Similarly the senior Police officers Vibhuti Narain Rai, is of the opinion, based on his through empirical study, that it is only by increased representation of minorities, especially Muslims, in the police either through reservation or by developing some in-house methodologies, could their biased attitudes responsible for hostile behavior towards Muslims be neutralized or rectified. Justice D Madon’s observation that “it was necessary that in recruitment to the police adequate representation was given to minorities” is well known. One more factor in the increase of representation of minorities in forces is that it provides more employment opportunity to

youths belonging to minority communities thereby acts as a welfare measure on the part of Government for their economic betterment.

But if we look at facts and figure in all states of India excluding Muslim-majority Jammu & Kashmir, Muslims are underrepresented in the police and in all but one state (J&K) for which data have so far become available; they constitute a larger than proportional share of prisoners. The Sachar committee's findings have added weight to what have long been said that the under-representation of Muslims in Police forces across the country has contributed to institutional communalism and a persistent failure to defend the community's basic Human Rights. But it is to be noted that two of the states with the best record of containing communal violence in the post-Independence period – West Bengal and Kerala have a poor record on ensuring adequate representation of Muslims in the Police while a little over a quarter of the population of West Bengal is Muslims, the third highest figure after Jammu & Kashmir and Assam just over 7% of the police force is drawn from the Muslim Community. Kerala, where almost 13% of the police force is Muslim, does somewhat better but that figure also falls short of proportional representation of Muslims. Indeed the percentage point gap between Muslim representation in the police force and among the general population is worse in West Bengal and Kerela than in Gujarat and Maharashtra. Andhra Pradesh has succeeded in ensuring more than adequate representation for Muslims in the Police, but not in containing communal violence or bias. Of the Andhra Pradesh Police's 77,850 personnel of which 10,312 are Muslims, making it only where the community has a greater representation in service than the population as a whole but Hyderabad city has seen some of the worst and most sustained urban communal violence in India³⁰. So what lesson ought to be drawn from these data? Perhaps the most

important one is that some of the discourse on the role of the police in communal violence suffers from the same biases it sets out to critique. There is no evidence to suggest that police forces necessarily advocate the interest of their co-religionist. The largely Sikhs-dominated Punjab Police ferociously put down Khalistan terrorist groups in Punjab and contrary to popular myth, the Muslim majority Jammu and Kashmir police has long been at the cutting edge of counter terrorist operations targeting Pakistan based Islamist groups. Similarly Hindu majority police forces have often demonstrated their skill at preventing or rapidly terminating communal Violence³¹. It is to be understood that communalism and communal violence are fundamentally political phenomenon. Even if there is zero representation of Muslims in police force but political situation is congenial to communal harmony, there will be no outbursts of communal violence. And, on the other hand, even if there is over-representation of Muslims in the police force, there is absolutely no guarantee that there will be no communal violence³². But what is maintained is that the proper presence of minorities especially Muslims in the police force would lead to proper handling of communal riot and also post-communal riot situation apart from winning the confidence of community at the receiving end of the communal riot.

Police Reform Policy

Reforms in the Police policy are long over due after Independence and important in largest democracy of the world and it is a matter of surprise that the Police in India is still governed by the colonial Police Act of 1861 which was meant by the ruling colonial masters to suppress the people of the country who in their view were mere subjects not citizens. The 1861 Police Act is a colonial hangover on our executive system. There is an urgent need to formulate a system to develop a neutral, secular, non-communal police

force, which will act as per the law of the land without fear or favour and free from extraneous interference. The nexus among politicians, criminals and the police has to be broken to curb communal violence. In spite of the various recommendations made by Justice Jagmohan Reddy 30 years ago and the VS Dave Commission 10 years ago, the police continue to be sluggish. The simple reason for this is that there is no political will to punish erring police officers and men for dereliction of duty. These officials have abdicated their duties and deserve strict action. The politicization of the bureaucracy and police in action has an adverse effect on the administration.³³

Of late concerns has been raised to shed that hangover to make it a reality and efforts are made regarding this but the voices were raised for the reforms since mid 1970s, the post-emergency period. In the year 1979 National Police Commission (NPC) submitted its comprehensive report dealing with almost every aspect of police reforms. The commission was set up after the country witnessed the two years of emergency from 1975-77 during the reign of Mrs Indira Gandhi, the then PM of India, in which the fundamental as well as other rights were blatantly violated. 'Emergency period' of 1975-77 witnessed perhaps the most oppressive character of the police in Indian history. Mrs Indira Gandhi faced with the threat of losing her power by a judgment of a high court, declared national emergency and suppressed all democratic processes in the country. Not only were all opponents of Mrs Gandhi brutally treated by the police but its power was also misused for populist measures. Police force was used in the anti-encroachment drives, forced sterilization programs and even for bringing crowds to Mrs Gandhi's son Sanjay Ghandhi's political rallies. After the emergency Morarji Desai of Janata Party after defeating Indira Gandhi came to power and became PM. Because these opposition parties had tasted bitterly in the emergency period

especially at the hands of Police so they constituted a separate commission to make an overhaul of the whole Police system. National Police Commission (NPC) report is complete and comprehensive in itself. NPC had recommended many steps to be followed. On the one hand it had talked about reducing political interference in the police work while on the other it had suggested some strong measures against the rioters. It is pity that the Police leadership comes under heavy pressure from their political bosses as the latter virtually have complete control on their selection, promotion and transfer. Those police officers seen as defying the wishes of the politicians are often shunted out, the politicians thus manage to push the police as much as possible to suite their interest. Police act as the policy enforcer of the ruling establishment rather than the law enforcing body. The NPC has recommended setting up of the State Security Commission (SSC) in every state and the state security commission has to submit the yearly report to the state legislature and not to the political executives, who might have had vested interest. The State Security Commission should comprise the following members:

- Chief Minister/Home Minister as Chairman
- Lok Ayukta/Member State Human Rights Commission
- High Court Judge (Retd.) nominated by Chief Justice
- Leader of Opposition in the Assembly
- Chief Secretary/Principal Secretary (Home)
- DGP as ex officio Secretary

The Commissions would be responsible for:

- a) Laying down broad policy guidelines and directions for the performance of preventive and service-oriented functions of the police;
- b) Evaluation of the performance of the State Police every year and presenting a report to the State Legislature

- c) Functioning as a forum of appeal for disposing off representations from any police officer of the rank of Superintendent of Police and above regarding his being subjected to illegal or irregular orders in the performance of his duties;
- d) Functioning as a forum of appeal for disposing off representations from police officers regarding promotion to the rank of Superintendent of Police and above; and.
- e) Generally keeping in review the functioning of the police in the State.

The Commission would thus, on the one hand, lay down the broad policies and the framework within which the police must function and, on the other hand, act as a shock absorber between the government and the police to ensure that there is no extraneous pressure on its functioning. The Commission must be a statutory body and its recommendations binding on the government.

This was to help the police on their own during crises like riots and regarding the investigation of the riot cases, the NPC had suggested establishment of special squads i.e. comprising officers of proven integrity- under the state CID, which would vigorously investigate the cases and ensure punishment for the culprits. The tendency to withdraw cases on the pretext of promoting communal harmony between the communities never proves effective and has to be discouraged, the NPC had said.

The other area of reform relates to the use of force and firearms by the police for mob-control, including communal tension. The police has been routinely using lethal weapons for controlling even unarmed mob- without any intent or capacity of the mob to pose any threat to life. The manuals on riot control encourage such use of firepower even at the

initial stage for deterrence. There is a need to prescribe the UN Basic Principles on the use of Force and Firearms by the Law enforcement officials³⁴.

On 22nd September 2006, the Supreme Court of India delivered a historic judgment, on a Public Interest Litigation (PIL) filed by former police officer Mr Prakash Singh, in *Prakash Singh and Others Vs Union of India and Others*, laying down six practical directives to kick-start the police reform process. The Court's directives are binding on all state governments to frame appropriate legislation. The Supreme Court in connection with this PIL had set December 31st, 2007 as the deadline for the central and state governments to implement seven proposals that have been part of the recommendations made by various commissions and committees, including the PADC. Again the most important directives of the Supreme Court are Directives 1 and 6 on setting up State Security Commissions and Police Complaints Authorities. Separate from the push coming from the Supreme Court, the Manmohan Singh government had set up a Police Act Drafting Committee (PADC) to draft a new Model Police Act, commonly known as the Soli Sorabjee Committee. The PADC was mandated to take into account the changing role and responsibilities of the police and the challenges before it, and draft a model act that could guide states while adopting their own legislation. The constitution of the PADC was prompted by the Prime Minister's concern expressed at the Conference of District Superintendents of Police in early 2005 that: "We need to ensure that police forces at all levels, and even more so at the grassroots, change from a feudal force to a democratic service."³⁵

Police Accountability

The concept of accountability is of paramount importance in an institution like Police especially in the largest democratic

set up like India. The voices are raised to make our police force more accountable and transparent in its actions. Insulating the police from the unhealthy political influence is one thing and making it accountable is another. Establishing independent civilian control is quite another. In a country where the poor face torture by the police on the day-to-day basis, it is imperative that civilian control be clearly spelt and credibly independent so as to act as a deterring safeguard against police.

Some important recommendations of the National Police Commission (NPC) need to be implemented urgently at the State level to check any further deterioration in the policing system affecting the lives and liberties of the citizens: (i) constitution of a statutory commission in each State called the State Security Commission; (ii) laying down broad policy guidelines and directions for the performance of preventive tasks and service-oriented functions by the police³⁶.

The State Security Commission should have the Minister in charge of Police as Chairman and six more members. Two of these should be from the State Legislature (one from the ruling side and the other from the opposition) and four should be appointed by the Chief Minister, subject to the approval of the State legislature, from amongst retired High Court Judges, retired senior Government officers and eminent social scientists or academicians.

The National Human Rights Commission (NHRC) had also called for reforms as it felt that "an efficient, honest police force is the principal bulwark of the nation against violations of human rights"³⁷ And one of measures for this purpose was to provide a statutory tenure of office for the Chief of Police in the State.

Thereafter the Ribeiro Committee was constituted in May 1988. But its recommendations remained in cold storage. Again we have the Padmanabhaiah Panel constituted by Government in January 2000. But the same inertia continues. Now the Soli Sorabjee committee has drafted the Model Police Act 2006. It has also recommended creation of a state level accountability as well as district level authorities to ensure police accountability. Many senior police leaders as well as state governments have unfortunately frowned upon the creation of these mechanisms. But their objections do not stand scrutiny. Senior police officers should draw lesson from international experience. The oversight mechanism, if they function properly, will enhance police credibility, restore public confidence in police and also ensure fair play for the police officers. There is a lack of public confidence in the police force ability to investigate complaints against its own members. Public demand for civilian supervision of the police stimulus from the widely held perception that the 'police cannot police themselves'. There are strong reasons in favour of civilian review of police complaint. First complainants feel more comfortable and free to air grievances. Second, a civilian's perspective promotes fairness. Third, greater objectivity and thoroughness in investigation leads to higher number of substantiated complaints and more appropriate disciplinary action against corrupt officers. Indeed civilian review is critical to the legitimacy of the police. Its purpose is not simply to punish errant police officers but to demonstrate to the public that it functions as a responsible institution. Police accountability is required to be fixed and enforced in accordance with the norms of democracy, which mean supremacy of the rule of law. The police must be made accountable to the law of the land and answerable to the people through Parliament and State legislature. The inability of the internal accountability mechanism world over to prevent the abuse of power by police has given rise to the need for external accountability

mechanism having expertise, experience and stature to scrutinize police actions and look into the citizen's complaints. This role has been assigned to the National and State Human Rights Commissions constituted under the Protection of Human Rights Act, 1993. These bodies are meant to ensure "better protection of human rights" by effectively dealing with the complainants of (a) violation of human rights and (b) negligence in the prevention of violation of human rights by public servants including the police personnel.

Conclusion

Police reforms in India are critical now, more than ever before because there is an urgent need to formulate a system to develop an honest, neutral and unbiased police, which must uphold the law of the land and should be free from any fear, favour and political meddling. Commission after commission and one agency after another have continually been stressing the need for this³⁸. But police reforms in India are susceptible as it is complained by India's first women IPS officer that "Believe me, actually the police reform policies formulated by the Home Ministry are a part to sabotage it completely,"³⁹

The police are meant to protect the political, civil and other rights of the minorities and other weaker sections of the society against any violence and for that purpose they are more likely to succeed if they are impartial, neutral and not wholly at the mercy of the politicians. They are best checked if the people are able to monitor police work at the cutting edge, without the power of command but with the power to exposé suspected malpractices to universal gaze. At the same time an overhaul of the criminal justice system is absolutely necessary so that ordinarily talented, honest and diligent policemen can bring all matters of criminal act to book

through due process of law but with a greater degree of certainty and in real time thereby discourage putative miscreants.

Representation of minorities in the police force is also one possible solution of the problem sincere efforts should be made to make our Police force adequately representative of personnel belonging to minority communities especially Muslims that will act not only in winning the confidence of the people of the area in which the police force is deployed especially in the minority-dominant areas but also provide them good employment opportunities. State Governments must enact new laws for reorganization of the Police making it to enjoy functional independence and accountable to law, as is envisaged in the Model Police Act 2006, framed by the Drafting Committee headed by Mr Soli J Sorabjee.

Provision of the component of Human Rights, eradication of prejudices and the human rights control methods in the training program of the Police and other law enforcement agencies will play a crucial role. Police organization can certainly help the reform process, if they can discover the reason why they could not redeem their image when there was no political interference and when the police officers had secure tenures and evolve procedures to overcome the problem and if they could pay greater heed to rewards and punishments so that they reflect commitment to public good rather than loyalty to the superiors. They also need to pay much greater attention to intangibles like organizational cultures and leadership at the station and district level to make reform measures more meaningful. All these voices of police reforms, accountability and impartiality will remain mere slogans until and unless there is sincere political will to achieve this irrespective of political and ideological affiliations.

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Uniform Civil Code and Judicial Activism

Shakeel A. Samdani

Part IV of the Constitution of India contains Articles, which are bracketed under the title 'Directive Principles of State Policy' for the good governance of the country. None of such directives has evoked so much reaction as the Constitutional requirement of a Uniform Civil Code for all citizens throughout the country. These are active obligations of the state. The state shall secure a social order in which social, economic and political justice shall inform all the institutions of national life. The 'Directive Principles of State Policy' detailed in Articles 37 to 51 of the Constitution possess two characteristics. *Firstly*, they are not enforceable in any court and, therefore, if a directive is infringed, no remedy is available to the aggrieved party by judicial proceedings. *Secondly*, they are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws. In this article, an endeavour has been made to discuss the Constitutional obligation of the state to secure for citizens a Uniform Civil Code throughout the territory of India and Judicial craftsmanship of the High Courts and Supreme Court. The cases discussed in this article are those in which either the Constitutionality of some personal law was challenged or the court, 'suo-moto', discussed the desirability of the enactment of a Uniform Civil Code. Since the time of its incorporation in the Constitution this has been a controversial topic and it continues to be so. Article 44 of the Indian Constitution runs as follows:

The state shall endeavour to secure for citizens a Uniform Civil Code throughout the territory of India.

Narasuappa Mali Case

The first case was *State of Bombay vs. Narasuappa Mali*¹, where the legislative provisions modifying the old Hindu law were challenged on the ground of being violative of Articles 14, 15 and 25 of the Constitution. The Bombay High Court held that the Bombay Prevention of Hindu Bigamous Marriages Act, 1946² was *intra vires* to the Constitution. The Act had imposed severe penalties on a Hindu for contracting a bigamous marriage. The validity of this Act was attacked on the ground that it violated the freedom of religion guaranteed by Article 25 and permitted classification on religious grounds only, forbidden by Articles 14³ and 15.

It was argued that among the Hindus the institution of marriage is a sacrament and that marriage is a part of Hindu religion which is regulated by what is laid down by *Shastras*. It was also argued that a Hindu marries not only for his association with his mate but in order to perpetuate his family by the birth of sons. It is only when a son is born to a Hindu male that he secures spiritual benefit by having a son when he is dead and to the spirits of his ancestors and that there is no heavenly region for a sonless man. The institution of polygamy was justified as a necessity of a Hindu obtaining a son for the sake of religious efficacy, because son has a unique position in Hindu society. No other religious system has given such position to a son.

The court rejected the above arguments. Gajendra Gadkar J. was not prepared to concede that legislative interference with the provisions as to marriage constituted an infringement of Hindu religion or religious practice. He was of the opinion that a sonless man can obtain a son not only by a second marriage but also by adoption.

Chagla C.J., while upholding the validity of the Bombay Act, cited three reasons, *Firstly*, what the state protected was religious faith and belief, but not all religious practices. *Secondly*, he claimed that polygamy was not integral part of Hindu religion. *Finally*, if the state of Bombay compels Hindus to become monogamist, and if it is a measure of social reform then the state is empowered to legislate with regard to social reform under Article 25(2) (b), notwithstanding the fact that it may interfere with the right of a citizen freely to profess, practise and propagate his religion. Chief Justice Chagla relied heavily on *Davis vs. Beason*⁴.

Regarding the discrimination made by the Act on religious grounds it was contended that only the Hindu community was chosen for the purpose of legislation while Muslims were allowed to practise polygamy. Gajendra Gadkar J. thought that the classification made between Hindus and Muslims for the purpose of legislation was reasonable and did not violate the equality provision of Constitution contained in Article 14.

Chagla C.J. also considered that:

Article 14 does not lay down any legislation that the state may embark upon must necessarily be of and all embracing character. The state may rightly decide to bring about social reform by stages, and the stages may be territorial or they may be community wise, and that the discrimination made by the Act between the Hindus and the Muslims does not offend the equality provision of the Constitution.⁵

Chagla C.J. further observed that:

There can be no doubt that the Muslims have been excluded from the operation of the Act in question. Even Section 494, Indian Penal Code exempts them.

The court, thus submitting to the wisdom and supremacy of Legislature in a democracy kept its hand off from interfering with the prerogative of the Legislature.

Again in *Ram Prasad vs. State of U.P.* almost identical issue was raised before the Allahabad High Court, which followed the decision of Bombay and Madras High Courts, upholding the validity of the statutory provisions prohibiting bigamy among Hindus.⁶

Shah Bano Case

The next important case relating to Muslim Personal Law and Uniform Civil Code is *Mohd. Ahmad Khan vs. Shah Bano Begum*.⁷

The appellant, Mohd. Ahmad Khan, being an advocate by profession at Indore, M.P. married the respondent in 1932. In 1975 the appellant broke the matrimonial home by driving Shah Bano Begum out of matrimonial home. During this period the respondent gave birth to three sons and two daughters. In 1978, the respondent filed a suit under Section 125 Cr. P.C. in the court of judicial magistrate Ist class, Indore, asking for the maintenance provision at the rate of Rs.500/- per month. On November 6, 1978, the appellant divorced the respondent exercising the 'so called' unilateral power of *talaaq*, she seized to be his wife, he was no more under obligation to maintain her and he had already paid maintenance to her at the rate of Rs.200/- per month for

about two years. He deposited Rs.3000/- in the court in lieu of dower during the period of *iddat*. In August 1979, the lower court directed the appellant to pay a sum of Rs. 25/- per month by way of maintenance. The respondent went in appeal to the Madhya Pradesh High Court in 1980 for the enhancement of maintenance amount. The High Court enhanced the maintenance amount to Rs.179.20 per month. Against this order the husband approached the highest judicial institution through special leave.

A Bench consisting of Mr. Justice Murtaza Fazle Ali and Mr. Justice A. Vardharajan were of the opinion that these two cases were not correctly decided; hence they referred this appeal to a larger Bench on Feb. 3, 1981 stating that:

As this case involves substantial questions of law of far reaching consequences, we feel that the decisions of this court in *Bai Tabira vs. Ali Hussain Fissoly Chotia*⁸ and *Fazlun Bi vs. Khader Vali*⁹ require reconsideration because, in our opinion they are not only in direct contravention of the plain and the unambiguous language of Section 127 (2) (b) of the Code of Criminal Procedure, 1973... The decisions also appear to us to be against the fundamental concept of divorce by the husband and its consequences under the Muslim law, which has been expressly protected by Section 2 of Muslim Personal Law (*Shariat*) Application Act, 1937 – An Act that was not noticed by the aforesaid decision. We, therefore, direct that the matter may be placed before the honourable Chief Justice for being heard by a larger Bench consisting of more than three judges.

A Constitution Bench consisting of five judges (*Chandrachud, C.J. D.A. Desai, J.O. Chenappa Reddy, J.L.S. Venkat Ramiah, J. and Rangnath Mishra J.*) heard the case. Chief Justice Chandrachud wrote and delivered the judgement.

Technically, the case related to the maintenance of Muslim divorcee but the observations of the court regarding Muslim Personal Law and Uniform Civil Code created a controversy in the socio-legal and political arena. The Supreme Court in *Bai Tahira and Fuzlun Bi* case settled the question of maintenance of Muslim divorcee and the applicability of Section 125 of Cr. P.C.

In *Shah Bano* case apart from observations relating to the maintenance of Muslim divorcee the Supreme Court held that:

- (i) There is no conflict between provisions of Section 125 of Criminal Procedure Code and Muslim Personal Law in the matter of maintenance of divorcee; however, in case of any conflict Section 125 shall prevail over the Personal Law.
- (ii) That a Muslim divorcee has a right to obtain maintenance till her remarriage or death under Section 125 of the code and if she is unable to maintain herself, her ex-husband has a duty to provide for her maintenance till her remarriage or death.
- (iii) That if a husband, even he be a Muslim marries another women the wife has a right to refuse to live with him and yet obtain maintenance from him.
- (iv) Moreover, the Supreme Court strongly criticized the Government of India for its reluctance to enact Uniform Civil Code in view of the sensitivity of the Muslim community.

Regarding the implementation of Article 44 of the Constitution, the court pointed out the apathy of the Legislature that it has not been sincere enough to bring the Uniform Civil Code into practice.¹⁰ The court further remarked that the government's inaction has rendered the directive contained in Article 44 of the Constitution of India meaningless and asked the government to take steps for enacting a Uniform Civil Code without any regard to the Muslim reaction. The Court felt that:

Inevitably, the role of the reformer has to be assumed by the court because, it is beyond the endurance of sensitive mind and to allow injustice to be suffered when it is so palpable. But piecemeal attempts of the Court to bridge the gap between Personal Laws cannot take the place of a Common Civil Code. Justice to all is a far more satisfactory way of dispensing justice than justice from case to case.

In this case, the appellant and the interveners stressed that under Islamic law a husband is duty bound to maintain the wife in case of divorce till the expiry of *Iddat* period only. In support of this assertion they relied on some very important text books (e.g. Mulla, Tyebji, Paras Diwan) on law, but the court did not find any merit in the referred textual materials. The court rejecting the above argument held that in case the divorcee was unable to maintain herself, the period of *Iddat* must not come in the way and she in such case, was entitled to be maintained by ex-husband even after the expiry of *Iddat* period and would continue till she had remarried. The court cited the two *Qur'anic verses* in support of this view point:

“For divorced women
Maintenance (should be provided)
...on a reasonable scale

This is a duty
 On the righteous”.¹¹
 “Thus, doth God
 Makes clear his signs
 To you: in order that
 Ye may understand.”¹²

Although the appellant and the intervener, All India Muslim Personal Law Board, challenged the correctness of the translation regarding the meaning of the word “*Mata*” used in verse 241 of Holy *Qur’an* but this point of dispute was not conceded and accepted by the court.

The judgement has been criticized on the following grounds:

- (i) The *Qur’an* and *Shariat* have been wrongly interpreted and by relying on these the Supreme Court held that there is no conflict between the Personal Law and Section 125 Cr. P.C. and ignored the authoritative texts and unanimity of *Ulema*. The Supreme Court has flouted the established principles of interpretations of Islamic Law by Muslim jurists and *Ulema* and an uninterrupted practice of the Muslims of the world for the last 1400 years.
- (ii) That the Muslim Personal Law (*Shariat*) Application Act, 1937, covers maintenance, if the parties are Muslims. The Supreme Court by enunciating the prevalence of the secular laws of social significance over the provisions of the *Shariat Act* has opened a way for courts to interfere in the Muslim Personal Law.
- (iii) The decision is a clear-cut interference in Muslim Personal Law.
- (iv) That the Supreme Court in this case not only ignored legislative history and clear intent of Legislature and violated the well established rules of harmonious construction for interpretation of statutes and for

harmonizing conflicts between different parts of the same law but set itself up as a “Super Legislature” or as a “Third Chamber of Legislature”.

- (v) That the Constitution authorizes to interpret the Constitution, not the *Qur’an* and to test the laws enacted by competent Legislature as regard their Constitutionality. The Constitution bestows no authority on Supreme Court to reinterpret a religion or to perform it.

The attempt of judiciary to interpret certain verses of *Qur’an* and admonition to state with regard to the Uniform Civil Code definitely frustrates the well established principle of ‘Judicial self-restraint’ and the concept of ‘Judicial Activism’ surely does not permit Indian independent judiciary to do like this.¹³

The concept of Uniform Civil Code has become very complex issue in Indian context. Unnecessarily and without any due relevance Supreme Court advocated for its preparation and application. Really, this aspect of Supreme Court’s observation can be respectfully submitted as “unwarranted”, “uncalled” for. How can a Uniform Civil Code be enforced in India based on diversified languages, religions, laws (in rare areas only) and cultures?¹⁴ It may be pointed out that such sporadic observations are bound to create controversy and for which our government has to face problems and some times it is compelled to pay a heavy price.¹⁵

One may legitimately ask: Was it, in fact, necessary to say all this to decide that the Cr. P.C. provision on divorced wife maintenance did not exclude Muslims from its scope?¹⁶ Prof. Tahir Mahmood, an eminent scholar observed about this judgment in the following words:

The ideas expressed by the Supreme Court at the end of the judgement in respect of the legendary Uniform Civil Code were as uncalled for as the attempt to put a new glass on a *Qur'anic* verse. The enthusiastic support given by the court to an extremely controversial issue in respect of which the Muslims are – awfully sensitive, and that too in a judgement directly concerning the Islamic Personal Law, is in-explicable. This '*obiter*' in the judgement could have been easily avoided without affecting in the least its '*ratio decidendi*'.¹⁷

Jorden Diengdeh Case

The third important case relating to the present discussion is *Jorden Diengdeh vs. S.S. Chopra*¹⁸ which was delivered only a fortnight after the controversial Shah Bano case. A division bench of the Supreme Court decided the special leave petition in Jorden Diengdeh case, relating to Christian Personal Law, on 10th May, 1985. Justice O. Chinappa Reddy, who sat also on Shah Bano Bench, delivered the judgement. The judgement is on the same lines as Shah Bano case and it is a supplement to Chief Justice Chandrachud's view on Uniform Civil Code expressed in Shah Bano Case. The facts of the case are somewhat novel and peculiar. The wife, the petitioner claims to belong to the 'Khasi tribe' of Meghalaya who was born and brought up as a Presbyterian Christian at Shillong. She is now a member of the Indian Foreign Service. The husband is a Sikh. They were married under the Christian Marriage Act, 1872. The marriage was performed on October 14, 1975. A petition for declaration of nullity of marriage or judicial separation was filed in 1980 under Sections 19, 20 and 22 of the Indian Divorce Act, 1869. A learned single judge rejected the prayer for declaration of nullity of marriage. The

wife filed petition for special leave to appeal against the judgement of High Court. She sought a declaration of nullity of marriage under the Indian Divorce Act, 1969, as the marriage was solemnized by Christian rites under the Christian Marriage Act, 1872. The ground on which the declaration was sought in the courts below and before the Supreme Court was the impotence of the husband in that though the husband was capable of achieving erection and penetration, he ejaculated pre-maturely before the wife could have an orgasm, leaving the wife totally unsatisfied and frustrated. The real problem before the court was that the marriage appeared to have broken down irretrievably. Finding that it was not possible for the court to give the desired relief under the Christian law, the learned judge talked of the urgent need to enact a 'Uniform Civil Code'. He reproduced the ground of divorce and nullity under various statutes (Indian Divorce Act, 1869; Parsi Marriage and Divorce Act, 1936; Dissolution of Muslim Marriages Act, 1939; Special Marriage Act, 1954; Hindu Marriage Act, 1955) and concluded:

It is thus seen that the law relating to judicial separation, divorce and nullity of marriage is, far from being uniform. Surely the time has now come for a complete reform of the law of marriage and makes a uniform law applicable to all people irrespective of religion and caste... We suggest that the time has come for the intervention of the Legislature in these matters to provide for a Uniform Code of marriage and divorce and to provide by law for a way out of the unhappy situations in which couples like the present have found themselves. We direct that a copy of this order may be forwarded to the Ministry of Law and Justice for such actions as they may deem fit to take.¹⁹

The court did not give any relief to the victim and no one knows what finally happened to the poor tribal lady. The Delhi High Court had, while refusing a decree of nullity, allowed her a judicial separation keeping her irretrievably broken marriage legally intact.

The *Jorden Diengdeb* case involved application and interpretation of the Christian Personal Law. Yet the Supreme Court judgement in the case examined neither the present state of Christian Personal Law in the country nor the response of the Christian community to the issues of Personal Law reforms and Uniform Civil Code. Nor did it talk of the Parsi community's feelings in this matter. Paraphrasing divorce and nullity provisions in the Christian and Parsi laws and the comparable sections of the statutes applicable to Hindus and Muslims, Justice O. Chinappa Reddy chose only to join the chorus of groans of the day to rebuke Muslims for their opposition to the Shah Bano ruling - in which the state had been asked "to act" towards enacting a Uniform Civil Code even if the majority community was not prepared to give a "lead" by offering repeal of its own Personal Law in favour of Uniform laws.²⁰

This appeal involved some very serious issues faced by the society other than the Uniform Civil Code but Chenappa Reddy J. did not make any reference to those issues, it shows the intention of the learned judge. He has unnecessarily created serious doubts about the legitimacy of codified law workable in India since 1950. In the opinion of Prof. Tahir Mahmood:

Neither the issue of 'Uniform Civil Code' nor that of the response to Shah Bano judgement was in question in the case before the court. What does it mean? Can the court speak suo moto only about a 'Uniform Civil Code' and

the Muslim law and never about any other factors even if they are much more relevant than 'Uniform Civil Code' and Muslim law in any case.²¹

What the *Jorden Diengdeh* case, and many other judicial cases have brought to the limelight for a re-codification of the Christian law in India. Last codified in 1865-1872 on the basis of the progress made till then in Britain, statutory Christian law is now rather outdated. It is the women who are the worst sufferers under the 19th century Christian law statutes of 1866 to 1872. Not only Christian women but also those non-Christian women who are married to Christian and are therefore, again governed by those laws. The Kerala High Court in the following words has described the plight of women governed by the 19th century statutes of Christian law:

Life of a Christian wife who is compelled to live against her will, though in name only, as the wife of the man who hates her, has cruelly treated her and deserted her, putting an end to marital relationship irreversible, will be a sub-human life without dignity and personal liberty ... which she is bound to lead till her death.²²

Although Ammine E.J. got relief from a miserable life by the Kerala High Court but *Jorden Diengdeh* was not given any relief and she was left to suffer endlessly till a 'Uniform Civil Code' is enacted.

Sarla Mudgal Case

The fourth important case relating to Personal Laws of Hindus and Muslims and 'Uniform Civil Code' is *Sarla Mudgal vs. Union of India*.²³ Once again a very controversial judgement

was handed down by the Supreme Court of India which once again raised the question of the enactment of a 'Uniform Civil Code'. The judgement became very controversial due to its uncalled for '*obiter dicta*'. The issue raised before the court were as follows:

- (a) Whether a Hindu male married according to Hindu rites could solemnize second marriage by embracing Islam?
- (b) Whether such marriage was possible without the dissolution of first marriage?
- (c) Whether the first Hindu wife could continue with the status of wife?
- (d) Whether the husband converted to Islam having married with other female would be guilty of offence under Section 494 of Indian Penal Code, 1860?

The most important issue before the court was that while the statutory Hindu law did not and the Muslim Personal Law as in force in India did allow bigamy, could a Hindu circumvent the restriction by announcing a sham conversion to Islam? The court answering the question in 'negative' observed:

We, therefore, hold that the second marriage of Hindu is banned after his conversion to Islam (without getting his first marriage dissolved) is a void marriage in terms of Section 494 I.P.C.²⁴

The court ascribed the problem before it to the plurality of Personal Laws in the country and stressed the need for a 'Uniform Civil Code' as the remedy. Kuldeep Singh and R.M. Sahay, J.J. delivered two separate but concurrent judgements. The court held that –

- (i) Article 44 is based on the concept that there is no necessary connection between religion and Personal Laws in a 'civilized society'.
- (ii) Article 25 guarantees religious freedom whereas Article 44 seems to divest religion from social relations and Personal Law. Marriage, succession and like matters of secular character cannot be brought within the guarantees enshrined under Articles 25, 26 and 27.
- (iii) Article 44 is a decisive step towards national integration.

Justice Kuldeep Singh observed that:

The Personal Laws of the Hindus, such as relating to marriage, succession and the like have all a sacramental origin, in the same manner as in the case of the Muslims or the Christians. The Hindus along with Sikhs, Buddhists and Jains have forsaken their sentiments in the cause of national unity and integration, some other communities would not though, the Constitution enjoins the establishment of a 'Common Civil Code' for the whole of India.

Justice Kuldeep Singh further observed that:

Those who preferred to remain in India after the partition, fully knew that the Indian leaders did not believe in the two nation or three nation theory and that in the Indian republic there was to be only one nation – Indian nation – and no community could claim to remain a separate entity on the basis of religion.

These observations of the learned judge require a close scrutiny. If we go through the above observation then we come to the following conclusion:

- (i) India was partitioned in 1947 by the protagonist of “two nation theory”.
- (ii) Indian leaders did not believe in that theory.
- (iii) In the Republic of India there was to be only “one nation – the Indian nation”.
- (iv) In the Indian Republic “no community could claim to remain a separate entity on the basis of religion”.
- (v) Those who preferred to remain in India after partition “fully knew this”.

Therefore, the Government of India is directed to immediately enact a Uniform Civil Code by introducing a bill in the Parliament. The above observations or the ‘*obiter dicta*’ of the judgement have ruined the sensible ‘*ratio decidendi*’ of this case that is to hold the second marriage of a Hindu husband after his conversion to Islam (without getting his first marriage dissolved) as void marriage.

The observations of Justice Kuldeep Singh need close scrutiny. *Firstly*, we will take the observation that the Hindus along with Sikhs, Buddhists and Jains have forsaken their sentiments in the cause of national unity and integrity. The concrete issue before the court was that while the statutory Hindu law did not and the Muslim Personal Law as enforced in India did allow bigamy, could a Hindu husband circumvent the restriction by announcing a conversion to Islam?

Assertively ruling that the law could not allow him to do so, the court ascribed the problem to the plurality of the Personal Laws in the country and stressed the need for a uniform law of marriage. While it does call for urgent remedial measures, seeking those measures in the terribly complex issue of a

Uniform Civil Code ignores the maxim 'Justice delayed is justice denied'. In the opinion of the court the delay on the part of the government in enacting a Uniform Civil Code is attributable to 'reasons too obvious to be stated'. On the one hand the court said that the reasons are too obvious to be stated, and, on the other hand the court discussed those obvious reasons in full detail. It seems that the court also believes in certain popular misconceptions in respect of Personal Laws and the Constitutional provisions relating to a Uniform Civil Code.

The court's ruling that majority has forsaken their Personal Laws for the sake of national unity is also not correct. If we go through the legislative history of four Hindu-Law Statutes we find that these statutes were enacted not for the sake of national unity but for ameliorating the conditions of Hindu women.

Secondly, all the four Hindu-law statues were not enacted for the directive of Article 44. As the vast population of Hindu tribe was kept out of all the Hindu law enactments of 1955-56 and were left free to follow their age old customs and those who were brought within the fold of newly enacted laws again certain local and caste customs relating to the extra-judicial divorce and women's property rights were specifically protected. We can say that the new Hindu Personal Law of 1955-56 was, thus, neither uniform nor free from religion based and sex based discrimination as it made many 'exceptions' in the form of customs and castes. It may be noted that these four Hindu law statues were clearly against the directive of Article 44.

Thus, the observation of Justice Kuldeep Singh that the Hindus, Sikhs, Buddhists and Jains, have forsaken their sentiments for the sake of 'national unity and integration' is not true rather the codified Hindu law of 1955-56 was

extended to these communities because these three communities never had any scripture – based Personal Laws of their own. Even before 1955-56 Hindu law subject to some contrary usages of their own governed them; and there is still ample room for the retention of those special usages under all the Hindu law enactments of 1955-56. As far as Muslims, Christians and Parsis are concerned they always had their own religion based Personal Laws.

The observation of the court that Article 44 is based on the concept that there is no necessary connection between religion and Personal Law in a civilized society also needs a close scrutiny. It is submitted that under Islam the concept of religion covers the whole life cycle and even the Hereafter. Law and religion under Islam cannot be separated. Islam enjoins its believer to follow *Sbariah*. There are numerous provisions in *Qur'an* to this effect:

These are the limits ordained by God: so do not transgress them. If they do transgress the limits ordained by God such persons wrong (themselves as well as others).²⁵

As far as marriage is concerned it is so in the words of Justice Abdur Rahim:

Mohammadan jurists regard the institution of marriage as partaking both of the nature of *Ibadat* or devotional acts and *Muamlat* or dealings among men.

Seen from the religious angle, Muslim marriage is an '*Ibadat*' (devotional act). The Prophet (SAW) is reported to have said the marriage is essential for every physically fit Muslim who could afford it. Moreover, the following traditions may also be considered:

He who marries completes half his religion; it now rests with him to complete the other half by leading a virtuous life in constant fear of God.

There is not mockery in Islam.

There are three persons whom the Almighty himself has undertaken to help – first, he who seeks to buy his freedom; second, he who marries with a view to secure his chastity; and third, he who fights in the cause of God.

...Whoever marries a woman in order that he may retain his eyes –God putteth a blessedness in her for him, and in him for her.

The Prophet (SAW) is reported by some of the writers to say that marriage is equal to '*Jehad*' (holy war); it is sinful not to contract a marriage; it is a *Sunnab*; and it is obligatory on those who are physically fit.²⁶ In view of the above it is not correct that Article 25 does not cover marriage.

Besides other key concepts, secularism, religious and cultural freedom under Article 25 is not confined to freedom of conscience but its ambit covers the right to profess, practise and propagate the religion by the citizens. Indeed, religion is a wide and persuasive concept. It is not confined to 'faith' only because 'practice' and 'propagation' are the part and parcel of the religion. 'Faith' represents the inner aspect of religion, while 'practice' and 'propagation, manifest the external aspect'.²⁷

Once Lord Bryce, speaking on the nature of Muslim law, observed:

In Islam law is religion and religion is law, because both have same sources and an equal authority being both contained in the Divine Revelation.²⁸

Justice Kuldeep Singh perhaps is totally ignorant about the history of Muslim Personal Law in India when he says:

Political history of India shows that during the Muslim regime, justice was administered by the *Qazis* who would obviously apply the Muslim scriptural law to Muslims, but there was no similar assurance so far litigation concerning Hindus was concerned. The system, more or less, continued during the time of East India Company, until 1772 when Warren Hastings made Regulations for the administration of civil justice for the native population, without discrimination between Hindus and Mohammedans. The 1772 Regulations followed by the Regulations of 1781 where under it was prescribed that either community was to be governed by its 'Personal Law' in matters relating to inheritance, marriage, religious usage and institutions.

A cursory perusal of the history of Muslim Personal Law in India reveals that Mohammad Bin Qasim, who conquered Sindh, established the policy of non-interference in the Personal Laws of other communities. The local population was, however, treated with utmost consideration as reflected in a letter written by powerful viceroy of Eastern Provinces of the *Ummayyad* Empire, Hajjaj to him:

They have been taken under our protection and we cannot in any way stretch out our hands upon their lives or property. Permission is given to them to worship their God. Nobody must be forbidden. They may live in their houses in whatever manner they like.²⁹

The historians attach little importance to Arab rule in Sindh; yet its indirect effects are many and far reaching. For example, the political arrangements made by Mohammad Ibn Qasim with non-Muslims provided the ‘basis’ for later Muslim policy in the sub-continent.”

Muslim rulers of Delhi later on followed this policy of non-interference in religious and family matters. During Mughal regime the Islamic law was the law of the land. The judiciary enforced the civil and criminal laws, but the non-Muslims enjoyed the full freedom in respect of their Personal Laws. The British government also allowed the Muslims and Hindus to follow their own Personal Laws.

The observation of Justice Kuldeep Singh that Article 44 is a decisive step towards national integration seems somewhat untenable. Delivering the main judgement, he proceeded to hold:

Those who preferred to remain in India after partition fully knew that the Indian leaders did not believe in two-nation or three-nation theory.

This part of judgement is assailable. However, it is not a new assertion. This argument was put forward during the debate on Uniform Civil Code in the draft Constitution where K.M. Munshi,³⁰ M.R. Masani, Aladi Krishna Ayyar³¹ advocated about Uniform Civil Code. Justice R.N. Sahay although,

concurred with his companion Justice Kuldeep Singh but he was alive to the sensitivities, realities and magnitude of the problem, when he observed:

The pattern of debate, even today, is the same as was voiced forcefully by the members of the minority community in the Constituent Assembly. If, the non implementation of the provisions contained in Article 44 amounts to great failure of Indian democracy' represents one side of the picture, then the other side claims that, 'logical probability appears to be that the code would cause dissatisfaction and disintegration than serve as a common umbrella to promote homogeneity and national solidarity.

However, Justice R.N. Sahay favours the implementation of Uniform Civil Code when he observed that 'religious practices, violative of human rights and dignity and sacerdotal suffocation of essentially civil and material freedoms, are not autonomy but oppression. Therefore, unified code is imperative both for protection of the oppressed and for promotion of national unity and solidarity.

But while advocating the desirability of a Uniform Civil Code he again gave a sensible root for the attainment of the objectives contained in Article 44 when he said:

The desirability of Uniform Code can hardly be doubted. But it can concretize only when climate is properly built up by elite of the society, statesmen amongst leaders who instead of gaining personal mileage rise above and awaken the masses to accept the change.³²

He advised the government to entrust the responsibility to the Law Commission which may in consultation with Minority Commission examine the matter and bring about the comprehensive legislation in keeping with modern day concept of human rights for women.

Eminent jurist and an expert of Constitutional law H.M. Seervai's opinion about the Sarla Mudgal case is as follows:

It is unfortunate that supporting or opposing a Uniform Civil Code should do so without reference to our Constitution and the law governing the two very large communities in our country – Hindus and Muslims. It becomes necessary to say this because of the amazing order passed (in Sarla Mudgal case). The Supreme Court cannot enforce the mandate of Article 44 consequently the aforesaid order is null and void.³³

His concluding observation is also quite germane. Those who have studied Hindu law and Mohammadan law will realize that a Common Civil Code for the Hindus and the Muslims alike is impossibility.

As far as the order of the court, directing the Government of India to file an affidavit within a stipulated time, indicating therein the steps taken and the effort made, by the Government of India towards securing, a 'Uniform Civil Code', is concerned, it is nothing but the violation of judicial restraint envisaged by the doctrine of 'separation of powers' which is an inherent characteristic of the Constitution of India.

Ahmedabad Women Action Group Case³⁴

After the judgement in Sarla Mudgal's case yet another verdict in the form of '*ratio decidendi*' came in 1997 and some significant issues about the Muslim Personal Law were raised by the petitioners in this case. A petition was filed, as a public interest litigation, which the Supreme Court disposed off with other two petitions filed by Lok Sevak Sangh and Young Women Christian Association, raising similar questions about laws applicable to Hindus and Christians, respectively. The petition, as regards the Muslim Personal Law urged upon the court:

- A To declare Muslim Personal Law which allows polygamy as void, as offending Articles 14 and 15 of the Constitution;
- B. To declare Muslim Personal Law, which enables a Muslim male to give unilateral *talaq* to his wife without her consent and without resort to judicial process of courts, as void, offending Articles 13, 14 and 15 of the Constitution;
- C To declare that the mere fact that a Muslim husband takes more than one wife is an act of 'cruelty' within the meaning of Clause VIII (f) of Section 2 of the Dissolution of Muslim Marriages Act, 1939;
- D To declare that the Muslim Women (Protection of Rights on Divorce) Act, as void as infringing Articles 14 and 15; and.
- E To declare the provisions of '*Sunni* and '*Shia*' laws of inheritance which provide for lesser share for females as compared to the shares of males, void as

discriminating against female only on the ground of sex.

The other two petitions prayed for similar relief regarding Sections 2(2), 5(ii) and (ii), 6 and explanation to Section 30 of the Hindu Succession Act, 1956; Section 2 of the Hindu Marriage Act, 1955; Sections 3(2), 6 and 9 of the Hindu Minority and Guardianship Act, 1956 read with Section 6 of the Guardians and Wards Act, 1890, Hindu spouse's unfettered right to make testamentary disposition; Sections 10 and 34 of the Indian Divorce Act, 1869 and Sections 43 to 46 of the Indian Succession Act.

The court did not dispose off any of the petition on merits because these issues involved state policies and according to the court, they are best dealt by the Legislature. The court, in this case, realizing the complexities involved in the issues raised before it and also knowing full its powers and limitations, refused to oblige the petitioners by observing, at the outset that:

These writ petitions do not deserve disposal on merits in as much as the arguments advanced by the senior advocate before us wholly involved issues of state policies with which the court will not ordinarily have any concern.³⁵

The court supported its judgement in this case on the basis of its observations in earlier decisions, where the court had held that "*The remedy lies somewhere else and not by knocking at the doors of the court.*" The court quoted a number of significant judgments where similar issues came before it for adjudication. One such earlier petition was *Maharishi Avadesh vs. Union of India*.³⁶ In this case the Supreme Court of India

dismissed a writ petition under Article 32 of the Constitution. The reliefs prayed in this case were as follows:

- (a) To issue a writ of *mandamus* to respondent to consider the question of enacting a Common Civil Code for all citizens of India;
- (b) To declare the Muslim Women (Protection of Rights on Divorce) Act, 1986 as void being arbitrary and discriminatory and in violation of Articles 14 and 15 and Articles 44, 38, 39 and 39A of the Constitution of India; and
- (c) To direct the respondents not to enact *Shariat* Act, 1937 in respect of those adversely affecting the dignity and rights of Muslim women and against their protection.

The court dismissed the petition saying “*These are all matters for Legislature. The court cannot legislate in these matters.*”³⁷

The court had, for the same reasons in *Reynold Rajmani vs. Union of India*³⁸ refused to add any new grounds of divorce, like divorce by mutual consent, to those already specified in the Indian Divorce Act. It was emphasized that the court can give the *fullest amplitude of meaning to the existing provisions, but cannot extend or enlarge legislative policy by adding a provision to the statute, which was never enacted there.* The court further emphasized the previously established trends in different cases explaining the fact that making law or amendment to a law is a *slow process and the Legislature attempts to remedy where the need is felt more acute.* It would be inexpedient and incorrect to think that all laws have to be made uniformly applicable to all people in one go. The mischief or defect, which is most acute, can be remedied by process of law at stages.³⁹

The court said:

A uniform law, though is highly desirable, enactment thereof in one go perhaps may be counter productive to unity and integrity of the nation. Making law or amendment to a law is a slow process and the legislative attempts to remedy where the need is felt most acute. It would, therefore be inexpedient and incorrect to think that all laws have to be made uniformly applicable to all people in one go.

The Supreme Court in *Krishna Singh vs. Mathura*, opined that in process of applying the Personal Laws of the parties, the judges of the High Court 'could not introduce their own concept of modernity'. In view of the Supreme Court, the Constitution maintained the position of Personal Laws 'status quo'. In this case the Supreme Court, while considering the question whether a 'sudra' could be ordained to a religious order and become a 'sanyasi or 'yati' and therefore, installed as *Mahant* of the Garwa Ghat Math according to the tenets of the Sant Mat Sampradaya, observed:

... Part III of the Constitution does not touch upon the Personal Laws of the parties. In applying the Personal Laws of the parties, he (Judge) could not introduce his own concepts of modern times but should have enforced the law as derived from the recognized and authoritative sources of Hindu law...⁴⁰

Thus, Part III of the Constitution does not touch upon the Personal Laws of the parties and in applying the Personal Laws, a judge may not introduce his own concepts of modern

times but enforce the law as derived from recognized authoritative sources of that law.

The Supreme Court in the case clarified that in that case none of the decisions referred to above were placed before the Division Bench, as they found no mention in the separate judgements of Kuldeep Singh and R.N. Sahay, J.J. The question regarding the desirability of enacting a Uniform Civil Code did not directly arise in that case. The question in that case, mainly related to embracing of Islam by a Hindu husband and his solemnization of a second marriage, etc. Regarding Uniform Civil Code, Sahay, J. in his separate but concurring judgement, opined that while it was desirable to have a Uniform Civil Code the time was not yet ripe for that accordingly, the decision in *Sarla Mudgal* ultimately centered around the main questions and the observations on the desirability of enacting the Uniform Civil Code were only by way of '*obiter dicta*'.

Thus, the most important and the most appreciable part of the judgement is that the Supreme Court held that the observations made by Justice Kuldeep Singh "*were incidentally made*".⁴¹

Apart from these cases the court in Ahmedabad Women Action Group also referred to its opinions expressed in two more cases, *Madhu Kishwar vs. State of Bihar*⁴² and *Anil Mabsi vs. Union of India*.⁴³

The Court in this case did not look into the Constitutionality of the Muslim Women (Protection of Rights on Divorce) Act, 1986 because that issue was already pending before the Constitution Bench. Thus, the court did not dispose off any of the issue involved in the case on merits; instead declared them as involving State Policies, which fell within the ambit of the Legislature.

Justice Ahmadi, in this case has rightly mentioned that the court should have maintained the 'self-restraint' of the judiciary particularly in a matter relating to Personal Laws, which happens to be an extremely sensitive issue in India. The judgement of the apex court is a welcome decision and it should be appreciated because it shows the commitment of the judiciary to the doctrine of 'separation of power', which is the backbone of any modern democratic state.

Lily Thomas Case⁴⁴

Putting the seal of approval on Ahmedabad Women Action Group Case, the Supreme Court in Lily Thomas Case held that it had not issued any 'Directions' for the codification of the Common Civil Code and Judges constituting the different Benches had only expressed their views in the facts and circumstances of those cases.

A Division Bench consisting of S. Saghir Ahmad and R.P. Sethi, J.J. gave the judgement. Both the judges, although concurred, but gave separate judgements. Justice S. Saghir Ahmad held that:

It may also be pointed out that in the counter-affidavit filed on 30th August, 1996 and in the supplementary affidavit filed on 5th December, 1996 on behalf of Govt. of India in the case of Sarla Mudgal, it has been stated that the Govt. would take steps to make a Uniform Code only if the communities which desire such a Code approach the Govt. and take the initiative themselves in the matter. With these affidavits, the Govt. of India had also annexed a copy of the speech made by Dr. B.R. Ambedkar in the Constituent Assembly on 2nd December, 1948 at the time

of making of the Constitution. While discussing the position of Common Civil Code, Dr. Ambedkar, inter alia, had stated in his speech (as revealed in the Union of India's affidavit) "...I should also like to point out that all that the State as claiming in this matter has a power to legislate. There is no obligation under the State to do away with Personal Laws. It is only giving a power. Therefore, no one need be apprehensive of the fact that if the State has the power, the State will immediately proceed to execute or enforce that power in a manner that may be found to be objectionable by the Muslims or by the Christians or by any other community in India.⁴⁵

He further stated:

We must all remember – including Members of the Muslim community who have spoken on this subject, though one can appreciate their feelings very well – that sovereignty is always limited, no matter even if you assert that it is unlimited, because sovereignty in the exercise of that power must reconcile itself to the sentiments of different communities.⁴⁶

Justice R.P. Sethi in his separate judgement observed that:

Learned counsel appearing on behalf of the Jamiat-Ulema Hind and learned counsel appearing on behalf of Muslim Personal Law Board have rightly argued that this Court has no power to give directions for the enforcement of the Directive Principles of the

State Policy as detailed in Chapter IV of the Constitution which includes Article 44. This Court has time and again reiterated the position that Directives as detailed in Part IV of the Constitution are not enforceable in Courts as they do not create any justiciable rights in favour of any person.⁴⁷

Clarifying the position regarding Sarla Mudgal's case the learned judge held that:

In this case also no directions appeared to have been issued by this court for the purpose of having Uniform Civil Code within the meaning of Article 44 of the Constitution. Kuldeep Singh, J. in his judgement only requested the Government to have a fresh look at Article 44 of the Constitution in the light of words used in that Article. In that context the direction was issued to the Government for filing an affidavit to indicate the steps taken and efforts made in that behalf. Sahai, J. in his concurrent but separate judgement only suggested the ways and means, if deemed proper, for implementation of the aforesaid Directive. The Judges comprising the Bench were not the only Judges to express their anguish.⁴⁸

Regarding apprehensions of Muslim organizations he said:

The apprehension expressed on behalf of Jamiat-Ulema Hind and Muslim Personal Law Board is unfounded but in order to allay all apprehensions we deem it proper to reiterate that this Court had not issued any directions

for the codification of the Common Civil Code and the Judges constituting the different Benches had only expressed their views in the facts and circumstances of those cases.⁴⁹

Thus, the Division Bench of Supreme Court clarified the position and removed the apprehensions of the Muslim Community. This is a welcome judgement and the religious minorities who are opposed to the Uniform Civil Code must appreciate it.

To conclude the whole discussion it can be safely said that the Supreme Court in its last two judgments has clarified the correct legal position about Uniform Civil Code. The court while disposing off the petitions has rightly maintained the principle of the 'self-restraint' and also committed itself to the doctrine of 'separation of power', which is the backbone of any modern democratic state. All, lawmen and laymen, should appreciate these rulings of the apex court.

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8. Bai Tahira vs Ali Hussain Fissalli Chothia, 1979 Cr.LJ 151.
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15. *Supra* note 13 at 272.
16. Tahir Mahmood, *Uniform Civil Code: Fictions and Facts*, p. 21 (1995).
17. *Id.*, at 22.
18. *Supra* note 14.
19. *Id.*, at 940-41.
20. *Supra* note 16 at 105.
21. *Supra* note 16 at 28.
22. Ammini E.J. AIR 1995, Ker. 252.
23. (1995) 3. S.C.C. 636.
24. *Id.*, at 648.
25. The *Holy Quran* II: 229, Translated by Abdullah Yusuf Ali.
26. Syed Khalid Rashid, *Muslim Law*, p. 54 (1996).
27. Mohammad Shabbir, "Muslim Personal Law, Uniform Civil Code and Judicial Activism: A Critique", XII *ALIG L.J.* 1997, p. 65.
28. James Bryce, *Studies in History and Jurisprudence*, p. 237 (1901).
29. Ikram, *Muslim Civilization in India*, pp. 6-12 (1964).
30. K.M. Munshi said: "There is one important consideration which we have to bear in mind... and I want my Muslim friends to realize this that the sooner we forget this isolationist outlook on life, it will be better for the country. Religion must be restricted to sphere, which legitimately appertain to religion and the

- rest of life must be regulated, unified and modified in such a manner that we may evolve as early as possible a strong consolidated nation. Our first problem and the most important problem is to ensure national unity in the country”.
31. Alladi asserted that, “the replacement of the Personal Laws by a Uniform Civil Code was necessary to preserve the national unity and to remove dangers threatening national consolidation”.
 32. *Ibid.*
 33. Seervai H.M., *The Times of India*, July 5, 1995.
 34. Ahmedabad Women Action Group vs. Union of India (1997) 3 SCC 573.
 35. *Id.*, at 575.
 36. (1994) Supp (i) SCC 713.
 37. *Id.*, at 714.
 38. (1982) 2 SCC 474.
 39. Pannalal Bansilal Pitti vs. State of A.P. (1996) 2 SCC 498).
 40. (1981) 3SCC 635.
 41. *Id.*, at 582.
 42. (1996) 5 SCC 125.
 43. (1994) 5 SCC 704.
 44. Lily Thomas vs. Union of India, AIR 2000 SC1650.
 45. *Ibid.*
 46. *Ibid.*
 47. *Id.*, at 1669.
 48. *Ibid.*
 49. *Ibid.*

Muslim Women in India

Sekh Rahim Mondal

Introduction

Women-studies is an important field in contemporary social scientific research. Women studies has a great value in generating consciousness about multi-dimensional roles played by women in a society. Its basic objective is to study and collect information on women with a goal to empower them in their struggle against inequality. Further, the status of women and contribution made by them is considered to be the best indicator of social development and progress. But unfortunately, the information on women in different societies are very limited.

There is a general perception that women in the Muslim society have less opportunity to have higher education and job and are deprived of equal rights to participate in decision making process because of tradition and culture. Further, there are many misconceptions regarding status of women in Muslim society. The sanction as well as practice of polygamy and divorce in Muslim society is a controversial issue, especially in India. There has been a notion that the incidence of polygamy and divorce is very high among the Indian Muslims and which has an impact on the status of their women. This stereotyped notion is not only affecting the Muslim mind but also influencing the political and communal situation of the country. Therefore, an empirical study on Muslim women is very much necessary to know their problems and prospects of empowerment.

The present study is a modest attempt to examine the status and role of Muslim women in India in general and West Bengal in particular. Special emphasis shall be given to highlight their social situation, clarify misconceptions, identify

major obstacles and formulate ways and means to overcome the problems of empowerment. The paper is based on facts gathered from secondary and primary sources. Relevant literature was consulted and field studies were conducted through anthropological tools and techniques to get the relevant facts.

Background of the Study

India is known for having the second largest Muslim population of the globe. Muslims occupy an important position in Indian society. They are the principal minority of this country. According to 1991 census Muslims constituted 12.12 percent of India's total population. In Muslim population there were 930 females per 1000 males. Muslims are not a monolithic community in terms of their socio-cultural life and empowerment of resources and opportunities to women, hence there are tremendous social divergences among them. Muslims in India are considered as economically and educationally backward. It is assumed that the development of Muslim society has sustained a setback due to various factors of which the 'invisible' role and 'marginalized' position of women in organization of the Muslim society is very crucial one.

Muslims are the followers of Islam which has a definite notion towards status and role of women. The attitude of Islam bears witness to the fact that, a woman is at least, as vital of life and society as man himself, and that she is not inferior to him. The teaching of *Quran* and *Hadith* revealed that the status of women has been taken for granted to be equal to those of men. Islam has given women the rights and privileges which are nearly equal to those of men. But empirically it is observed that like other societies, the women in Muslim society also live and grow in an environment which denies them equal access to economic and political

participation, education and other opportunities of life. They are also suffering from imposition of several traditional rules and restrictions which affect their self-esteem and personality. As a result women in Muslim society enjoying a marginal social position and lagging behind in economic independence, education and development. All these go against value system of Islam in respect of status of women. Thus, a serious endeavour is incumbent upon social scientists for a better understanding of this situation.

There exists a diversity of opinion regarding social marginality of Muslim women. Some regard it as the legacy of tradition. While others consider that the women's passivity, seclusion and marginal place in Muslim society have little to do with Islamic tradition, but and are, on the contrary, ideological constructs which are alien to Islam and are effects of the misuse of power by reactionary forces. These aspects are very crucial in the context of theoretical frame of reference in understanding and examining the status and empowerment of women in the Muslim society.

Over last two decades the position of Muslim women have come to the notice of the academicians, policymakers and development authorities of India. The Muslim women, like other women, are more undernourished, more under compensated for their labour and more under represented in formal decision making bodies than men. The marginalized status of Muslim women is not well documented. Therefore, empirical information on Muslim women, particularly on their social position as well as problems and prospects are very much needed for the sake of their empowerment, which is a priority area of India's national development.

Very little information are available on status of Muslim women in India. The available information on Muslim women are mostly on their stereotyped images leading to

debates and counter debates. A description of their social situation told by the Muslim women themselves is really a missing aspect of our knowledge system. To learn this 'hidden perspective' an empirical knowledge on overall Muslim women's social situation is very much needed. This study is an attempt in that direction, which depicts the Muslim women's situation on the basis of empirical evidence. In India there has been a tendency to examine the status of Muslim women from the perspectives of the text and the stereotyped images. But this study has been oriented to see the Muslim women's problem from the perspective of the context i.e. the economic and social framework under which the Muslim women grow and live.

Muslim Women in India

According to 1991 census the total Muslim population in India were 101,596,057 of which 52,631,365 were males and 48,964,692 were females. The economic role of Muslim women is not visible. A great majority of them are confined to homes and engaged in household chores. For various reasons Muslim women's participation in employment is negligible. The economic backwardness of Muslims compelled a section of women to earn a livelihood by involving in home based industries and works to support their meager family income. In Muslim community the participation of women in the labour force is negligible due to rules of seclusion (*pardab*). As a result a great majority of them are economically dependent on their male relatives. The educational status of women in Muslim community is highly disheartening. The Indian Muslim women do not progress much in formal education. Illiteracy and low education is rampant among them. For various reasons girls and women are discouraged from attending schools the dropout among them is very high. Traditional outlook, poverty, early-age marriage, domestic responsibilities and above all the rules of

pardah are considered to be the important reasons behind the educational backwardness of the Indian Muslim women. Only a microscopic section of Muslim women belonging to well to do families have higher education, and a small section of them take up outside jobs. While the others are unemployed for various reasons.

Early age marriage is quite widespread among Indian Muslim women. Marriage by negotiation is a common practice. Transaction of dowry in marriage now a days considered to be very necessary to settle the marriage and which has a lot of negative consequences on the position of women. The prevalence of dowry in Muslim society is not a Islamic practice but a situational development. Divorce and polygamy are prevalent in Muslim society as in other communities in India. But these are not so high as these are believed to be.

Muslim matrimonial issues viz. Polygamy, divorce and maintenance of divorcee are considered as very debatable in India. Some laws and statutes have been enacted on these issues in favour of Muslim women. The most important of them are Passage of Sharia Act 1937, dissolution of Muslim Marriage Act VIII 1939 and the Muslim Women Act 1986 etc.

Traditional joint family structure of Indian Muslims and the status as well as role of women therein has also been changing rapidly. The nuclearization of the Muslim family is an ongoing trend. The women in this type of family are enjoying some autonomy but at the same time their work load has been increasing. Attitudinally the Muslim women are not against family planning. But poverty, illiteracy, isolation, seclusion and prevalence of traditional values do not allow them to participate enthusiastically in family welfare activities. The fertility of the Muslim women is little bit high, but this is

not because of their religious values but due to overall backwardness of the Muslim community.

The gender relations in Muslim society is rather unequal. The gender division of labour is very conspicuous. Women are mainly engaged in household works viz. cooking, cleaning, washing, child rearing etc. Actually women are engaged in indoor works and men in outdoor works. Even in ceremonial and community activities, women have a very limited role to play. Women have a very poor access to control of family resources. Even their own earnings and assets are not under their control. Major family decisions are taken by the senior male members, women are consulted only in necessities or on domestic matters. Their role in decision making process in the family or society is very insignificant. The women have a very poor self-image and lack of confidence owing to the process of socialization and gender construction under patriarchal social set up. However, in recent time, the unequal gender relations in Muslim society have also been gradually changing due to various internal and external forces.

The seclusion or *purdah* observance is a traditional custom among the Indian women. But Muslim women observe it more rigidly than others. Among the Indian Muslim women the practice of *purdah* varies from place to place and also among group to group. Muslim women belong to higher social status observe *purdah* in rigid and fashionable manner than their counterparts of lower social status. The practice of *purdah* among the Muslim women has both positive and negative consequences.

The Muslim women have a very poor self-image. They are hardly able to think about their dynamic socio-economic roles and contribution to society. They have a mind set that they should do what they are told to do or do what are expected from them. The low or poor quality of human resources of

the Muslim women and their traditional mindset take the shape of a vicious cycle that prevents women from developing awareness and strengthening themselves.

Due to lack of education and social isolation the political awareness among the Muslim women is very low. Their participation in political process of the country is of peripheral nature. Due to steady process of politicization of the country the levels of political awareness is gradually increasing among the Muslim women. But for taking the political decision they are still much dependent upon their males for obvious reasons.

Muslim women played a very important role in maintaining traditional cultural life of the Muslims. They are the real protectors of cultural heritage of their society. They participate in different rites and rituals around life cycle viz. child birth, marriage, funeral and thereby preserve Muslim cultural tradition developed in relation to their habitat. Women are the carriers of traditional information of the little traditions of Muslim society. In absence of written records, the oral traditions are cultivated by women which helps in continuity of Muslim culture.

Like other women of the country, the Muslim women are also changing, but in a very slow process. Education, modernization, development programmes and reform of some laws are considered as the important factors of their change. (Ahmed: 1983; Engineer: 1987; Haseena: 1989; Lateef: 1983; Menon: 1981; Mohammad: 1999; Mondal: 1997a, 1997b; Roy: 1979).

Due to lack of authentic data at the national level it is very difficult to ascertain the exact demographic and socio-economic profile of the Muslim women in India. However,

the situation of Muslim women as reflected through sample surveys is presented in tables – 1&2.

Table-1
Levels of Income, Literacy, Schooling, Health and Demographics of Muslim women in India

Attributes	No. or percentages
Sex Ratio	930 per 1000 males
Work Participation Rate	9.6%
Literacy Rate 7+ Age	38.0%
Enrolment Rate	56.6%
Discontinuation Rate (6-14 year)	7.7%
Percentage Receiving ANC delivery	8.0%
Attended by Trained Person	31.5%
Total Fertility Rate	5.8%
Mean number of live birth	3.51%
Infant Mortality Rate	75 per thousand

Source: NCAER/HDI Survey 1994.

Table-2
Gender Differences in Education Among Muslims in India

State of Education	Rural		Urban	
	Male	Female	Male	Female
Educational Level				
a) Non Literate	58.2%	76.1%	42.4%	59.5%
b) Primary	18.6%	13.1%	20.9%	18.5%
c) Pre-Middle	19.1%	9.9%	26.3%	16.8%
d) Secondary	3.4%	0.8%	8.0%	4.3%
e) Graduate	0.6%	0.0%	2.3%	0.8%
Attending School				
a) 5-9 yrs	42.1%	32.8%	56.0%	52.1%
b) 10-14 yrs	56.5%	37.0%	63.6%	53.6%
c) 15-19 yrs	26.9%	8.8%	34.8%	19.3%
d) 20+	7.4%	1.4%	12.1%	4.7%

Source: NSS 43 Round 1987-88, Table 31.4

Situation in West Bengal

According to 1991 census Muslims constituted 23.61 percent of total population of West Bengal. They are distributed in varied numbers in all the northern and southern districts of this Indian state. Muslim society in West Bengal is not homogenous. The society is divided into various groups and sub-groups. The social situation of Muslim women in West Bengal is not very much different from other Muslim women of the country. The major difference between them is that, the Muslim women in West Bengal are comparatively free from orthodoxy and rigidity of some traditional customs and restrictions. Growth of education, secular socio-political environment, modernization and reform movements are considered as the crucial factors which helped the Muslim women of this state to lead their life. However, due to deep-rooted tradition, poverty and relative isolation, the Muslim women of West Bengal have been suffering from economic, educational, health and other socio-political problems. (Begum: 1992, Jahangir: 1991; Moinuddin: 2000, Mondal: 1979, 1997b, 2000, 2002).

Due to lack of dependable data empirical studies were conducted by the present author at some Muslim inhabiting areas of ten districts in West Bengal. The situation of Muslim women as reflected from those studies are presented in table-3.

Table-3

Demographic and Socio-economic Attributes of Muslim Women in West Bengal

Characteristics	Average interns of number and percentage
1. Female Population in Muslim Inhabiting	48.09%

places	6 numbers
2. Average family size	
3. Economic status	5.62%
a) Earner	94.38%
b) Dependent	Self employment
c) Nature of occupation if earner or partial earner	
4. Mean age at marriage	17 yrs.
5. Percentage of polygamy	3.48%
6. Percentage of Divorced women	1.01%
7. Percentage of widow	5.29%
8. Average number of children	3 members
9. Female Educational Studies	
a) Illiterate	66.38%
b) Simple Literate	3.82%
c) Primary Education	20.09%
d) Secondary Education	8.23%
e) School Final/Higher Secondary	1.03%
f) Graduates	0.45%
10. Nature of Purdah Practices	Traditional to Transitional

Source: Self-conducted Field Survey.

Basing on the empirical facts noted in the foregoing sections if we examine the Muslim Women's position on the basis of

their economic, organizational and personality attributes we may say that they do not have much higher social status. But if we consider their role in family management and retention of culture and heritage we can not ignore their important social position. Actually the role plays by women in Muslim society is “invisible”. Their lesser say in community life and lack of control over resources may give us an impression about their lower and marginal social position. But their concealed power and position in functioning of the Muslim society is very crucial one. On one hand, the Muslim women enjoy respectable position in domestic sector and also enjoy some privilege given by the society. While on the other hand there is evidence of discrimination. They enjoy some degree of autonomy in the sphere of ascribed role and status, but at the level of achieved role and status they are still in disadvantageous position.

Empowerment and Muslim Women: What is Women’s Empowerment?

The term empowerment is frequently used to describe a process wherein the powerless or dis-empowered gain a greater share of control over resources and decision making. Since women are accepted as being the most dis-empowered section of the society the term “women’s empowerment” has come to be associated with the women’s struggle for social justice and equality. The process of challenging existing power relations, and of gaining greater control over the sources of power may also be termed as empowerment. Empowerment of women is a process aimed at changing the nature and direction of systematic force which marginalize women in a given context (Goswami: 1998).

Are Muslim Women Dis-empowered?

The empirical study of Muslim women clearly indicates that in terms of socio-economic attributes as well as in respect of social position they are definitely a dis-empowered section of the society. The underlying factors behind their dis-empowerment are many, which are manifested through their status and role as set by the patriarchal social tradition. Hence, the Muslim women are really in need of empowerment for the sake of development and progress under contemporary changing situation.

Gender Development Index (GDI), Gender Empowerment Measurement (GEM) and Muslim Women

GDI and GEM have been introduced in Human Development Report (HDR) in 1995 by the UNDP. GDI attempts to capture achievement through the same set of basic capabilities in the Human Development Index (HDI), viz. Life expectancy, educational attainment, income, and gender equality. While GEM concentrates on participation and measuring gender inequality in key areas of economic, and political participation and decision making process. Thus the picture that emerges from empirical studies on Muslim women's social status clearly confirms the dis-empowerment of women in the Muslim society.

Factors Behind Dis-empowerment of Muslim Women

We may divide the factors behind dis-empowerment of Muslim women into three broad categories which are as follows:

- (i) **Economic Factors:** Muslim women are not economically independent. Due to their non-wage economic activities majority of the women are economically dependent on men. Further, lesser

scope of employment and lack of ownership of land and other capital, forces a woman to depend on men. This dependency is a serious obstacle to empowerment of women.

- (ii) **Social and Cultural Factors:** Most of the Muslim women are either illiterate or less educated. Moreover, in traditional Muslim society the women are socially ignored in many cases. This ignorance has tremendous impact on women's mind and this made them weak in family decision making and outside social activities. There has also been a cultural apathy towards women's empowerment. Some cultural practices of the Muslim society also affect women negatively. This is particularly true in respect to rigidity of social restrictions on the part of women in their day to day activities. On the other hand, the system of dowry on the part of bride as now noticed among the Indian Muslims is detrimental to women's position. The institution of *pardah*, some people argue, prevents women to participate in social, economic and political activities which are considered to be very important to empower themselves. It is now argued that men want to keep women in *pardah*, so that they would be under their control. In recent time the rise of fundamentalism for petty political gain of a section of political elite has facilitated the growth of fundamentalist political policies. This ultimately affected not only the status of women but also their struggle for empowerment.
- (iii) **Political Factors:** Owing to lack of education, social isolation and various other obstacles the Muslim women are not much aware about their political rights and privileges. Hence the political participation which is needed for empowerment is beyond the reach of the Muslim women. All these clearly reveals that it is

the social system of the Muslim community which acts as a barrier towards empowerment of women, in their access to resources, opportunities and decision making process.

Policies Regarding Empowerment of Muslim Women

Due to world wide awakening about women's empowerment, the states as well as central government of India have made several policies for empowering the women. Over the last few decades several planned development activities helped the Indian women to participate in the empowerment process. Like other women of the country, the Muslim women are also participating in this process. Non-government organization (NGO) are playing a very vital role in grass root development activities in India. They have also taken several programmes for women's empowerment. But for various reasons the participation of Muslim women in empowerment activities of government and non-government organization is not very satisfactory. However, several studies have shown that where the Muslim women were allowed to take the opportunities, they proved themselves capable to handle the responsibilities. This is particularly true in the context of self employment in household industries and to build group organization for self reliance. (Mondal: 1997 and 2002b).

Conclusions and Recommendations

On the basis of facts presented in this paper it may safely be said that in spite of gender justice as advocated by Islam, the women in Muslim society are victims of gender inequality. As a result, they enjoy a marginal and peripheral social position. Their relatively lower social status is determined by their roles which is either "invisible" or "non productive" in economic terms. Their socio-economic attributes clearly indicate that they are lagging behind in economic independence, education and political participation. They are usually outside the pale of

the decision making process due to their peripheral position and social situation. Owing to all these features they may be considered as dis-empowered segment of the society. Hence, the question of empowerment is very crucial to them. Muslim women's empowerment is not only related to nature and character of the Muslim society, but also to privileges and opportunities to be provided to them by government and non-government organizations. The major obstacles to Muslim women's empowerment are economic, political and socio-cultural. The Muslim women's mindset which is constituted under patriarchal social system also acts as a great obstacle to their empowerment.

To empower the Muslim women of India, the society as well as the nation must recognize the productive and reproductive role of women. The process of empowerment should be followed by conscious efforts of both male and female members of the society, which requires following steps.

- a) Removal of obstacles that deprive women of the benefits of economic, educational and social development.
- b) Encourage the women to develop themselves as effective partners in decision making process.
- c) There is a need of change in the attitude and practices of men to motivate women for better production of young girls and un-married women to cultivate their human qualities as responsible member of today's changing society.
- d) Measures to be taken to wipe out the barriers for participation of women in the labour force and to provide women the credit and other monetary assistance for income generating activities.

- e) Initiative to be taken to encourage women to take decisions independently to control over their own life and for which there is a need to remove disparities that directly and indirectly affect the women.
- f) Measures to be taken both by government and non-government agencies to formulate policies for improving the health condition as well as the economic, educational and social status of the Muslim women.

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Muslim Education in West Bengal

M.K.A. Siddiqui

In a multi-ethnic situation where the component units of the society compete with each other with unequal access to power, resources and opportunities, their respective achievements may not be uniform. While some solitary or individual cases of achievements may always be possible, depending upon circumstances, a general pattern of differential achievement of the underprivileged, in the wake of unhealthy competition, may be observable in a society in which ethnic groups find themselves in dominant-minority relationship.

A small and insignificant minority, even in a situation of unhealthy inter ethnic situation, may escape the attention of the dominant and may continue to flourish out of proportion, unnoticed and unhindered, while a significant minority, as in the case of Muslims in India, with historical antecedents and cultural distinctiveness may attract special attention. Their progress and development may quite often be watched with anxiety and apprehension .

To explain the retarded or inadequate development of the Muslims in the field of education and economy observers, particularly ones from within the community, generally lay stress on the inter-relational aspect of the society i.e., dominant-minority relationship or the proximity or distance of the community from the power structure of the society. Nature of inter-relationship may, in fact, be a major factor but it may not be the sole factor responsible for the situation. Often this kind of general explanation ignores some other factors responsible for the educational backwardness of the community. It prevents

introspection and hinders appropriate action to overcome the odds.

Looking at the country as a whole we notice that situations bearing relevance to our problem are diverse in different regions. The community also generally varies from one region to another in terms of its internal social segmentation, hierarchy, class composition, the pattern of its economic pursuits and cultural levels and attainments. The state of education and social development of the Muslims in a particular region is most likely to be correlated with factors both external or environmental and internal or inner characteristics of the population.

Thus understanding the problem of Muslim education and social development in a particular area would require on the one hand a thorough knowledge and comprehension of the socio-political environment of the region they inhabit and their historical background or social history on the other.

In observing environmental factors account has to be taken of the nature of relationship of the community with the wider social environment including the nature and extent of involvement with the structure of power and authority in the region. The positive or negative relationship would go to explain the nature of what we may call the 'social expectation' through educational achievement.

Observation of the internal features would involve the knowledge of the social history and socio-economic background of the community, its occupational pursuits, its position in the total class hierarchy and its socio-economic level or levels which provide style of life which may be

conjunctive or disjunctive or disjunctive with educational pursuits. The presence or absence of these factors may determine its degree of capability to seek or demand and acquire education. In the absence of a more suitable term we may call this 'educability' of the segment of the community.

Thus theoretically speaking educational achievement of a group is linked on the one hand with social expectation of a group and its 'educability' on the other. The nature of interaction between these two factors would go to determine the educational status of the group.

We must hasten to add that this should not be taken as a dilemma that defies solution. It is an attempt at promoting an understanding of the situation so that appropriate response can be given to the challenge.

In framing policy and fixing priorities, as also for estimating the changes, data both qualitative and quantitative is a must and can not be ignored; fixing up a baseline helps estimation and measurement of periodic changes.

Qualitative data may relate to the congeniality of socio-political situation. It will involve observation of the encouraging and discouraging aspects of the state policies and their actual operation. The social history, socio-economic background and hierarchical or segmental norms of the Muslim society have to be observed and qualitatively recorded.

Quantitative measurement of the rate of progress in time sequence and in comparative terms involving statistical methods is also absolutely necessary. Both qualitative and

quantitative methods are unavoidably essential for the observation of factors both internal and external to the community which may be indicative of its social expectation and its 'educability'.

The Case of Muslim Education in West Bengal

The points can be illustrated with the case of the state of Muslim education in West Bengal where, according to 1991 census, out of a total population of 70 million, Muslims constitute 16,075,836 or 23.61 percent.

Despite relative communal peace under the present Left Front government the downward mobility of the Muslims in the socio-economic life of the state is glaringly obvious and is undeniable. Muslim backwardness in the field of education is colossal. The gap between the educational achievement of the majority and the minority is ever widening.

This alarmingly bleak feature of the life of the Muslims demands an all-out endeavour to locate and sort out the barriers to progress, both historically and in contemporary situation. An adequate understanding of this background of backwardness of the Muslims and the hurdles they face in its removal in the contemporary situation is a prerequisite for devising any plan for positive action.

A section of the people who do not bother to gain complete awareness of the Muslim situation or are unsympathetic to the community attribute this lag to Muslim obscurantism, to their aversion to modern education and their preference for traditional learning under the influence of the so called 'clerics' etc. This point of view is orchestrated to put forth a theory of cultural

barrier to progress to absolve the society from its due responsibility in this regard and carries many people with the idea and reinforces negative attitude towards the community.

But a judgment of this sort will be unjustified without going into social history of the people in a particular region, the structure of their society in terms of class composition and their position in the regional hierarchy as also the nature of their relationship with the structure of authority in their habitat. All these aspects are difficult to be dealt with in detail in this brief essay which endeavours to observe the problem of education among the Muslims of West Bengal. Some of the main aspects may briefly be discussed.

Historical Background of Backwardness

The misfortune that set in a process of downward mobility of the Muslims in Bengal started with the advent of colonial rule after the battle of Plassy when the new rulers not only eliminated Muslims from the armed forces and other services but also adopted a series of measures aimed at breaking the backbone of the community rather its complete annihilation.

The Permanent Settlement of 1793 created two main classes, namely, the *zamindars* and the *ryots*, roughly coinciding with community boundaries. The *zamindars* who were favoured with unlimited powers to enhance the rent and to lord over the destiny of the *ryots* had impoverished them often to the level of destitution. They most often combined with them the role of moneylenders and sucked whatever blood was left in the *ryot's* veins. They imposed such taxes as '*iswar britti*', 'beard tax' etc. The desperation

sometimes led to revolts which were named as religious obscurantist movements and crushed with an iron hand by the combined forces of the government and the *zamindars*.

The Land Resumption Regulation deprived the educational institutions of the Muslims of the sources of their sustenance. During the same period the craftsmen, overwhelmingly Muslims, were hit hard by the industrial revolution in Britain and millions of them, engaged in export-oriented textiles and other industrial products, were rendered unemployed and got steeped into poverty on account of the fiscal policy of the rulers.

The language policy devised in 1837 was hailed by circles hostile to Muslims as an effective weapon to eliminate Muslims from the prospect of their entry into government services. Commenting on the government decision to abolish Persian ‘*Samachar Chandrika*’ as quoted by Indian Gazette dated December 26, 1831, wrote:

We hear that it is intention of our Governor General, Lord William Bentinck, to abolish the use of Persian language altogether. We are overjoyed at this intelligence, and offer a hundred benedictions to our chief, for this arrangement will be highly beneficial to the country... when the regulation is promulgated, first and foremost the haughtiness of the *juvuns* (a term of contempt to designate Muslims by orthodox Hindus) will be brought low, which will be much service to us... when the Bengali language is brought into use all the natives, beside *Moosoolmans*, may be employed in public service. The *Moosoolmans* will be

driven out, and never will be able to read
and write Bengali.¹

Not only the language policy was devised to bring low the 'hautiness' of the despised community and to drive them out of employment in public service but also to force them to a state of illiteracy. Thus J.H.Broomfield writes in his book 'The Elite Conflict in Bengal', Bombay 1968

The educational system was costly and exclusive. It was controlled by bhadralok primarily in the interest of bhadralok. And for those non-bhadralok who got the necessary education there was still formidable task of securing employment and reasonable promotion in offices under the regime of high-caste bhadralok chief clerks for whom the exercise of patronage or nepotism was the accepted rule²

The textbooks based on distorted version of history were full of false and malicious statements about Muslims which had the effect of alienating Muslim students from educational institutions. Muslims were often referred to in these textbooks as *jubun*, *melechas* and Turks. According to N.K.A. Yusufzai:

The Bengali writers on Indian history who could do no better than merely translate from the English works have out-heroded the herods, and painted Muslamans black to their heart's content³

Mehta and Patwardhan in their book 'The Communal Triangle' (1968) write:

The curriculum was so designed as to strange rather than interest the Muslims⁴

Mehta and Patwardhan further point out how Muslims were excluded from the government service. To substantiate the point they quote from Durbin of July 14, 1868:

Recently when several vacancies occurred in the office of the Sunderban's commissioner, that official in advertising them in the Govt. Gazette stated the appointment would be given to none but Hindus⁵

The impact of this policy of eliminating Muslims from educational institutions and government service was disastrous on the community. Thus W.W.Hunter made the following observation in 1876:

A hundred and seventy years ago it was almost impossible for a well-born Musalman in Bengal to become poor, at present it is almost impossible for him to continue rich

The attitude of a section of patriotic and freedom loving *Ulama*, wrongly described as clerics, towards an inimical and utterly hostile regime is not difficult to understand, yet the most prominent among the Muslim divine Hazrat Shah Abdul Aziz son of Hazrat Shah Waliullah issued an edict in favour of learning English. Shah Abdul Aziz and Shah Kabiruddin of Bihar advised Muslims to learn English long before Nawab Abdul Lateef and Sir Syed Ahmed Khan started their movement.

That the attitude of a section of the *Ulama* opposed to English had little impact on the community. The difference in the educational attainment of the Muslims of West Bengal and of neighbouring Bihar and their correlation with their class structure in the respective states will fully unravel the mystery.

The misfortune that has plagued the society in the area of our observation is the fact that a large section of the prosperous and influential people in Bengal were opposed to the educational uplift of the traditionally underprivileged and considered education as their exclusive right and its denial to the peasantry and the poorer classes as their prerogative. There are ample records in history providing evidence of bitter opposition from this class to budgetary allocation for primary education on the ground that it was unnecessary.⁶

In short every development during a long and crucial period of colonial rule in India with its massive presence in Bengal seemed to have one objective of pushing the Muslims systematically to disadvantages and disabilities. Their problems, social, economic and educational continued to multiply and instead of being objected to were hailed by some of the countrymen, a decisive section of whom were amply rewarded by the rulers and achieved unprecedented prosperity on account of the favours bestowed upon them.

These are among the factors that acted as serious disabilities in the way of the educational advancement of the Muslims. The operation of these factors made Muslims in this region decisively unequal. They were made to loose the social qualities which are necessary for acquiring

education as also the social expectation that could stimulate the urge for education.

The past events left scars which could never be healed up. They have left their legacy in the form of a decisive inequality between the two communities. In the circumstances any claim for providing equality of opportunity is meaningless, if not deception, because 'competition between unequals is a mockery of the principle of equality'.

The growth of a class of educational elites among the Muslims had to be slow and insignificant and a small group of elites that emerged was disillusioned to find the roads to its advancement blocked.⁷

The partition that followed was destined to have a disastrous effect. Muslims in West Bengal were not only deprived of a small section of their educational elites which left the country but also for decades the problems of safety and security of life and property loomed large in their mind. All this happened in recent past.

Contemporary Situation

The educational backwardness of the community became colossal and decisive. Its extent could be estimated from the fact that in a city like Calcutta where the community constitutes over 17 percent of the total population, the enrolment figure of its children in schools was estimated to be 2.30 percent and in institutions of its higher education 0.50 percent; the figure of dropouts is colossal and of the number of educational institutions established by the community or catering to the needs of the community, the less said the better.

The state of Muslim backwardness finds admission in various official report and is publicly admitted by the authorities. But it is paradoxical that state action in the matter of employment, housing and education etc. continues to widen the gap between the dominant majority and the deprived minority. There is no effort to understand the problem, far less its solution. Far from development of understanding of the problem, some individuals with ulterior motives mislead the people. A concerted attack on *maktabs* and *madrasabs* generally catering to the educational needs of the underprivileged sections, who have otherwise no chance of acquiring literacy and education, is based on either incorrect understanding or is motivated.

A consciousness of the situation and anxiety over the state among the minority compels their elites to lead the community towards measures for self-improvement. But it is inexplicable that instead of encouraging them the socio-political system and policies of the state act as hindrances in their way and block their path towards improvement.

Consciousness of backwardness is assuming a new height in the field of education. Demand for educational institutions is very great while more than half the number of eligible students have no schools to be admitted in. Several schools are compelled to admit more than double the capacity they have. Instances are not lacking of over half the number of students in a class remain standing because of the lack of space to sit. Admission of a child in a school of high standard is very difficult where capitation fee ranges from RS. 50,000 to more than a hundred thousand.

Educational institutions are extremely inadequate in number and demand for them is very great. Establishment of new institutions is very difficult because the state has the excuse of paucity of funds and does not allow private institutions necessary affiliation as a matter of policy.

This is not all. A close analysis of the system of management of the existing institutions, the behaviour pattern of the teachers, the quality of teaching, the syllabi and the books prescribed, the attitudes and behaviour of the guardians and, if I am allowed to use the term 'the entire social organization of education', there will be very alarming revelations. Voluntary endeavours to build a system, parallel to the one under state supervision, to effect improvement, seem quite often leading towards discord.

Schools are too few and fall far short of the demand making education a 'scarce commodity', subject to the laws of supply and demand. Acute scarcity of supply is leading to black marketing and corruption. This has a number of adverse effects, some of which are as follows.

1. A very large number of boys and girls are denied admission in schools.
2. Limitation on the quantitative increase in the number of students corrupts the system and affects the quality of education in several ways.
3. When capacity to pay capitation fee is a criterion it may entail hardships to many and have an undermining effect on merit.
4. Scarcity of educational institutions brings in the role of pressure and influence and undermines merits in matters of admission.

5. Teaching of important subjects is deliberately neglected in classrooms so that students would join private coaching.
6. Relationship between the teachers and the taught is far from happy. Overcrowding in classrooms spoils the academic atmosphere.
7. Community consciousness does not find sufficient scope to operate and thus develop frustration and apathy.
8. The socio-political climate has shifted the loyalty of the teachers to distant bureaucrats and politicians and has deflected them from the cause they are supposed to serve.

Remedial measures in the given circumstances in the area of observation should centre round the establishment of adequate number of schools and modernization of institutions allowing community endeavours to operate. The deserving deprived may thus be provided with the opportunity for admission. It will set a pattern of competition between institutions which will have a desired effect of improvement in the quality of teaching and minimize or eliminate capitation fees. Increase in the number of institutions under stringent rules will have a correlation with the quality of teaching. Establishment of institutions for offering employment oriented short training courses in various trades is also an absolute necessity, mainly keeping in view a large number of dropouts.

Thus in the light of the case of the Muslims of West Bengal it would appear appropriate to collect data on other areas keeping in mind the following points.

1. Relevant aspects of the social history and if we can use the term 'sociography' of the people of a region whose educational and social development is under study. This may enable us to have a basic idea of the nature of demand for education among the various segments of the society.
2. The state policy in this regard and its impact on the people concerned, the nature of facilities and encouragement available from the socio-political system and environment, availability or non-availability of suitable institutions, the attitude of the social system towards self-help and self-improvement by community and its endeavour to overcome the difficulties, all should be focussed on.
3. The scope of community initiatives in the establishment and management of institutions and effecting improvement in its functioning.
4. Number and levels or standard of educational institutions from *maktabs*, and primary institutions to higher and technical education and the proportion of Muslim students in these institutions
5. Actual figure of the Muslim boys and girls appearing at secondary and higher secondary board and their proportion to the total. A break-up of the Muslim candidates passing in the first and second divisions.

6. The percentage of Muslims in Medical, Engineering and institutions of technical education and training at the state level.
7. Data on relevant aspects maybe collected at intervals to allow comparability so that assessment of change and planning for improvement is possible. This will be of help to workers in the field.

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Madrassa Education in Rayalaseema

M. Mohammad Irfan

Contemporary writings on madrasas in India have a propensity to view them from the point of view either of 'restructuring the syllabi' or of security concerns. Various other crucial aspects of madrasas, including their social, economic, cultural and political roles, have received little attention from writers who tend to see them in stereotypically negative terms. Yet, madrasas need to be seen in a larger perspective and the argument about them needs to move beyond security -driven apprehensions. The issue of Madrasas is being raised especially since 9/11 when the twin towers were attacked in the United States. In India there are allegations that anti-national activities are being carried out in the Madrasas. There are other pertinent issues also which also need attention. The alleged communal activities promoting Islamic militancy, allegations of dumping of petro dollars from the Middle East in the Madrasas as well as modernization of Madrassa education, have now become a significant topic of debate not only in India but also in the West.

The Madrassa system in India, which is considered a chief cultural component and intellectual mode of conventional Islam in the country, has a long history. Religious exuberance of Indian Islam is nowhere more prominent than in these centres of classical Islamic studies. History says that madrasas, especially the Dar al-ulum in Deoband and the Nadwat ul-Ulama in Lucknow were the fountainheads of anti-colonial struggle for centuries. They also contributed a lot to create a mature pluralistic society in the country by eradicating narrow-mindedness and racial and caste feelings from the Indian mindset.

Muslims in India today are an essential segment in the socio-economic as well as in cultural domain and they number about 138 millions (census 2001). Muslim community in India is undergoing educational transition since a decade, but dynamics and the mechanisms through which such transformations are taking place are little understood. Our understanding on educational dynamics of Muslims is rather insufficient, because there is a shortage of empirical research that is carried out exclusively on Muslim population.

The study has been carried out as part of the research programme in the Department of Islamic Studies, Osmania University, Hyderabad. The area of study was Rayalaseema region in Andhra Pradesh, and the targeted group was the Muslim community. This study is based on the findings of the survey spread over four districts of Rayalaseema in 2005.

Universe of study

Geographically Andhra Pradesh has three broad divisions namely Telangana (with 10 districts), coastal Andhra (9 districts) and Rayalaseema (4 districts). One can find distinctness in each division geographically, and also in the socio cultural aspects of the population. They have distinct social, cultural and linguistic features. Muslims are in higher percentage in Rayalaseema than in other divisions. According to 2001 Census: Muslim population in Andhra Pradesh forms 9.17% of the total population. In Rayalaseema (4 Districts) Muslims constitute 12.51%, in Telangana (10 Districts) they comprise 12.43% and in Coastal Andhra (9 Districts) they form a meagre 4.54 % only.

Most of the Muslims in Rayalaseema live in urban areas and the majority of them are traders, artisans, petty shopkeepers, skilled and unskilled workers and labourers belonging to

lower classes. A large number of Muslim masses in Rayalaseema are illiterate and poor.

Table-1
Demography of Muslims in Rayalaseema (Census 2001)

District	Muslim population as % of total district population	Rural Muslim population as % of rural population	Urban Muslim population as % of urban population
Cuddapah	14.87	10.41	30.15
Kurnool	16.22	12.58	28.30
Anantapur	10.69	5.80	25.16
Chittoor	9.16	8.22	12.54

Objective of the Study

The main objective of the study is to know what percentage of Muslims has Madrasa education and how many are having formal education. To examine the possible correlation between certain socio-economic variables and educational levels of Muslims gender wise, in order to understand more clearly how important these factors are in explaining the observed educational trends of Muslims in the study area. To know about different types of madrasas in the area and how they are working. In order to accomplish the objective it was decided to carry out a detailed study of educational aspects among Muslim men and women in Rayalaseema region, a place where Muslims form major religious group of the total population.

Methodology adopted

The proposed theme has been studied both in conceptual and empirical framework. The empirical study¹ is conducted by

administering the interview schedule to the target group i.e. the Muslims of Rayalaseema. All the four districts i.e. Kurnool, Cuddapah, Anantapur and Chittoor, have been covered with a sample of 1126 households. The distribution of 1126 households in the four districts of Rayalaseema area has been made according to probability proportion to size rule. The number of Muslims according to 2001 Census report in Kurnool district is 572404 (i.e. 16.22%) had 336 samples, Cuddapah district with population 386900 (i.e. 14.87%) had 293 samples, Anantapur district with population 389201 (i.e. 10.69%) had 267 samples and Chittoor district with population 287006 (i.e. 9.16%) had 250 samples.

In each district, number of towns and villages have been selected where the concentration and number of targeted group (i.e., Muslims) is more. The population data has been taken from Mandal wise Muslim population figures of 1991, available from the census list. And the sample has been drawn in such a way as to include all types of respondents – men, women, lower class, upper class, young, old and people of varying occupations. Informal discussions have also been made with the elderly and intellectuals for a wider knowledge about the people of the region. The method of self-administered questionnaire has been adopted.

Introduction

Education is the foremost important thing which brings transformations or radical changes among the under developed people. Any nation, any community, or any individual cannot prosper and develop without education. Many scholars have referred to the role of education in removal of poverty. There are quite a few studies that stress education as an important tool in the development of human beings. For instance, Carl Weinberg² observes: “Education is the major vehicle through which the generation to generation

poverty cycle can be broken. The school must provide first the motivation and then the skills, abilities and knowledge that poor youngsters require to break free from the demoralizing and debilitating effects of deprivation". The development of social order increases with the progress of education. Thus education certainly makes people live their life in a more harmonious way.

Several studies were carried out regarding the educational aspects of the population in India. Ramaswamy³ points out the importance of education in economic growth. He infers that education will lead to positive economic growth to a considerable extent. Kamath⁴ has studied various dimensions of education in rural Maharashtra, and he writes that though the education has increased in level to certain extent, yet stringent policies are needed to augment it. He points out the fact that there is very little information on the educational status of the Muslims in India since Independence. He points out that there is poor literacy among the Muslims. Education is a prerequisite for the development of people generally not participating in developmental activities. Shafiquz-Zaman's⁵ book "*Problems of Minorities' Education*", is the latest one, in which he has vividly portrayed various dimensions regarding the Muslim education in contemporary India.

Kamath and Khan⁶ studied the educational aspects specifically with fieldwork, while rest of the studies deal with the importance of education in a general sense. The educational aspects of the Muslims are not available, because the Government has discontinued the publishing of socio economic data on the basis of religion since 1951.

This article explores the level and structure of Muslim education in both formal and non-formal domains in Rayalaseema. In this study formal education is used in the sense that the schools are run by Government and private

institutions, while non-formal education refers to those being taught in Madrasas and in homes. The data presented here focus essentially on the educational levels of and variations in gender disparities that exist among the Muslims of Rayalaseema in correlation to age and educational mobility, occupation and education and education of the respondents and educational preference for their children.

The outcome of the present study would be enlightening in light of the fact that even in the lower socio-economic group of Muslim community, overwhelming percentage of Muslims belonging to Rayalaseema opt for secular education.

Table-2
Gender and Respondents

Gender	Number of Respondents	Percentage
Male	885	78.5
Female	241	21.5
Total	1126	100.0

Table-3
The Respondents and Education

Education	Male	Percentage	Female	Percentage	Total No. of respondents	Percentage
No Formal Education	197	22.2	151	62.6	346	30.9
Primary	154	24.8	32	13.2	186	16.5
Secondary	220	24.8	21	8.7	241	21.4
Higher Secondary	107	12.1	6	2.4	113	10.0
Degree	138	15.5	23	9.5	161	14.3
Post Graduation	42	4.7	7	2.9	49	4.4
M.Phil / PhD	8	0.9	1	0.04	9	0.8

Hafiz / Alim	5	0.56	0	0	5	0.4
Professional education B.Ed/ M.Ed/ RMP	14	1.2	0	0	14	1.2
Total	885	100.0	241	100.0	1126	100.0

Table-3 shows that among the respondents more than 22% males and a whopping 62.6% female do not have at least formal education. 24.8% males and 13.2% female respondents have primary education only. The standard of education received at the lower primary level is generally so poor that this standard is not likely to enable people participate in and contribute to development. In such a vast democratic country like India the importance of education is all the more significant. Among the respondents who said that they studied up to V class with English, Urdu or Telugu Medium of instruction, one-third of them have forgotten how to read and write so, it shows that nearly 35% of the respondents are illiterates.

Only a one fifth i.e., 21.4% of the respondents have studied up to X class. One tenth (10%) of them studied higher secondary or intermediate, 14.3% of them studied up to degree, but most (60%) of them did not pass the degree exam. 4.4% are postgraduates. The percentage shown in the table corresponding to the Degree (14.3%) and PG (4.4%) does not mean that the Muslim community has the same percentage in higher education. It is while administering the questionnaire to the intellectuals in the community, their education has also been included. Consequently the overall percentage in Degree and PG looks higher.

It is seen from table-3 that there is a conspicuous absence of emphasis in giving attention to female education, but now there is a discernible change regarding the education of girls

in Muslim community. We will discuss the age wise data regarding female education a little later.

It is amazing to note that only 0.4% of the respondents studied at Madrasa. This shows that the Muslim population do not favour Madrasa education and preference is indisputably given to secular education in Rayalaseema area. The Madrasa students are those, who are poor and cannot afford secular education, which is relatively expensive. There are certain reasons behind the observed levels of Madrasa education. There is less number of Madrasas in the area, and they are increasingly dependent on local masses and philanthropists for their resources. Most of the Madrasas work outside the school hours to make time for the students who go to primary schools. Thus they cannot teach more syllabus in lesser time. Owing to strict rules and punishment in the Madrasas, students do dropout considerably.

History of Madrasa education: According to Muslim history and traditions, the syllabi, teaching techniques and methods were perfected from time to time and were taught in Arabic and Persian. During the 18th and 19th centuries the Madrasa syllabi was having both depth and dimension and it was multi disciplinary. When the British colonizers conquered India, they set English as the official language. They withdrew their patronage and facilities to Persian language. After the Mutiny of 1857, the Muslims were the main targets of the British and they were the most suspect. The British felt that Muslims as the ruling class wanted to claim their authority over the entire subcontinent and so they have to be isolated and weakened. The Ulema also gave Fatwas against learning western education. The Muslim life and education suffered in the whole Indian sub-continent. Non-Muslims went ahead, compromised quickly and adopted western education. After some decades, Muslim intellectuals realizing their situation, which was far behind the other communities, set themselves

to start new institutions like Dar-al-Uloom at Deoband, Mohammedan Anglo Oriental (MAO) college at Aligarh, Nadwat-al- Ulama at Lucknow, and many such institutions at many other places.

Muslim Education in Rayalaseema

Now Let us examine the condition of educational system that exists in the Muslim Community in Rayalaseema.

In the pre- British days, there was no state administrative machinery of the modern type, and education was not controlled by any external agency. Both the Hindu and Muslim rulers considered it as a religious obligation to help the spread of education. Liberal grants and donations were awarded to the respected religious leaders to set up educational institutions. Royal patrons founded educational institutions and endowed them with funds. In Medieval times Muslim educational institutions were located in mosques and Dargahs. For instance, the Hazrat Baba Dargah in Penukonda had been granted land and villages by the Vijayanagara monarchs⁷.

During 1800 AD, when the Rayalaseema districts, which were other wise known as ceded districts, came into the hands of the British, there were small Madarasas and Maktabas that were imparting education to the Muslim students. The British introduced English and secular education in the region after 1813 with the efforts of Charles Grant, Wilber Force and others through the Charter Act of 1813. This was the beginning of the Western system of education in India under the company rule. Sir Thomas Munro, the Governor of Madras presidency began to pay more attention towards education in 1822. He was the real pioneer in the educational movement in South India. Since then there was a change in the educational aspects of the Muslims.⁸

With the consolidation of British rule during the first half of the nineteenth century and with the grants from the East India Company, education also underwent some changes. There emerged the Anglicist view represented in the extreme form by Macauley's Minute (1835) and in more balanced statement in Wood's Despatch (1854). As a result Persian was dislodged from the prime position in the administration in 1837 in Bengal, and thereafter successively in one province after another. English replaced Persian at the higher, and Indian languages at the lowest levels. Education among the Muslims was affected by these turns of circumstances and their response to it varied from one part of the country to another.⁹ Some of the Muslims in this region accepted English and were in the mean time serving in the British Government in various positions.

Elementary Education and Muslims

The Muslims had number of Maktabas and Madarasas mostly with local funds to facilitate elementary as well as religious education. No tuition fee was charged. There was usually a Maktab in every mosque. The children were taught elementary Persian and reading of the Quran. In big Madarasas there were different kinds of subjects, which were taught to the students like Science, Literature, Politics, History, Jurisprudence apart from the Quran and Hadith. With the passing of the Local Funds Act and the Town Improvement Act of 1871, elementary schools began to be run by Municipal, Taluk and Local boards besides the Government. The Municipalities in Rayalaseema started primary schools. Madras government passed the compulsory Education Act in 1920, providing for the introduction of compulsion in suitable areas. The number of Primary schools and the enrolment of students increased considerably. There were a large number of Board schools in the Rayalaseema region. The Government of India Act 1935, with its

characteristic feature of provincial autonomy, followed by the rule of the Congress Ministers in 1937, facilitated the development of elementary education. Compulsory elementary education for all boys and girls between 6 and 14 years up to the VIII standards was introduced in the region. With the advent of independence and the creation of a Sovereign Democratic Republic, the country found itself faced with the constitutional obligation under the article 45 to provide within a period of 10 years, free and compulsory education to all children until they attained the age of 14.¹⁰

At the age of five, children were sent to Primary schools for elementary education. In many schools teaching was through Telugu Medium. Certain important Muslim centers in Rayalaseema had Urdu medium schools. In the early part of the twentieth century there were not many elementary schools for Muslim children. The government started an elementary school wherever the Muslim population was more than a thousand. To extend the scope of elementary education, an attempt was made by the government to introduce secular subjects into the curriculum of schools where hitherto only the Quran was taught. But the scheme was not a big success because of the Khilafat movement, which opposed all government efforts.¹¹

Age specific literacy rates

Table-4
Education and Male Respondents

Age (Years)	Pri mary	Seco ndary	Higher Seco ndary	Degre/ PG	M.Phil / Ph.D	Hafiz/ Alim	No Formal Educat ion	Profes sional
Less than 30	32 15.4 %	58 27.9%	31 14.9%	37 17.5%	0 0%	1 0.5 %	45 21.6%	4 3%
30 – 45	54 16.5 %	82 25.0%	32 9.8%	68 20.7%	6 1.8%	0 0%	79 24.1%	7 2.1%/%

46 – 60	40 16.3 %	57 23.3%	34 13.9%	53 21.6%	1 0.4%	3 1.2%	55 22.4%	2 0.8%
60 and more	28 26.9 %	23 22.1%	10 9.6%	22 21.1%	1 0.8%	1 0.8 %	18 17.3%	1 00.8% %

As the age of respondents decreases, illiteracy has decreased gradually, this shows that there is little progress in education.

Illiteracy is least in the age group of '60+' (17.3%) and it increased from 22.4% in the age group of '(46-60)' to 24.1% in the age groups of '(30-45)' and again decreased to 21.6% in the age group of 'less than 30' years. This shows that literacy among Muslims 50 years back was somewhat higher than in the succeeding years, it decreased and now it is gaining momentum again. This point can be confirmed if we see that nearly 27% of the respondents in the age group '60+' have completed primary and 22% secondary as well as a reasonable 21.1% studied degree.

As far as Madrasa study is concerned, there is only one Hafiz/Alim in the age group of 'less than 30' years, there is none in the age group of 30-45 years, there are three in 45-60 category, and only one in the category of more than 60 years.

In the age group of 'less than 30' years, there is a gradual increase in literacy, but the preference for higher education is very low. This can be attributed to the Muslim thinking that they will not get government jobs, as government jobs are becoming less and less and privatization is the norm these days, moreover Muslims do not have reservation quota in employment. It is seen that many of the government employees are showing little interest for higher education for their children. They are sending their children to the Middle East or for private jobs.

Table-5
Education and Female Respondents

Age	Primary	Secondary	Higher Secondary	Degree/PG	M.Phil/PhD	Hafiz/Alim	No Formal Education	Professional
Less than 30	7 11.9%	10 16.9%	4 6.8%	18 30.5%	0 0%	0 0%	20 33.9%	0 0%
30 – 45	16 1.5%	5 4.9%	2 2.0%	8 7.8%	1 1%	0 0%	70 68.6%	0 0%
46 – 60	9 14.1%	5 7.8%	0 0%	3 4.1%	0 0%	0 0%	47 73.4%	0 0%
More than 60	0 0%	1 6.3%	0 0%	1 6.3%	0 0%	0 0%	14 87.5%	0 0%

Literacy rate in females is decreasing as the age increases. In the age group of 60+ for women, the illiteracy rate is 87.5%, as the age group decreases to (46-60) the illiteracy rate decreases to 73.4%, and in the age group of (30-45) illiteracy rate is further reduced to 68.6% but in the age group of less than 30 years it is 33.9%. This obviously shows that Muslims are progressing in education at a faster rate especially regarding the education of girl child.

In the age group of less than 30 years, the table shows a strong 30.5% of the girls are pursuing degree. Most of them have reached up to Degree and most of them have been studying from open Universities. An important aspect has to be noted here. In Andhra Pradesh there is 33% reservation for women, so more and more Muslims girls are joining higher education.

There is no female respondent who opted for Madrasa education. Girls do get religious education, (i.e. reading of Quran,) in their home itself, especially with their parents or with some ‘Bi’ (a woman who teaches recitation of Quran in Arabic).

From the tables 4&5, the following inferences can be drawn:

1. The literacy level is increasing considerably over the years.
2. The pattern also suggests that over the time there has been a considerable reduction in gender disparity in literacy levels. These findings corroborate data from other sources such as the census and the NFHS surveys.
3. Illiteracy in this age group has implications not only for India's adult education programmes, but also for the expected linkages between female literacy and the positive role it plays in reducing fertility and mortality levels, and in child survival.

Occupation and Education:

It is said that one of the main features of a modern industrial society is the extent to which the educational system is the means, by which individuals are not merely trained for, but allocated to their occupational roles. It is also observed that the pattern of occupational hierarchy has, with the exception of farmers and agricultural workers, a general relationship with education.

Occupational background is quite often considered to have a profound influence on the educational status of the people. Lower the occupational status, lower is said to be the educational status. The reverse is also said to be true.

The relationship between occupation and education has been tabled below.

Table-6
Occupation and Education

Occupation	Primary	Secondary	Inter	Degree	P.G	M.Phil/Ph.D	Hafiz/Alim	No Ed	Professional
Unemployed	27 19.3%	25 17.9%	17 12.1 %	35 25.7 %	13 9.3 %	2 1.4%	0	20 14.3 %	0
Miscellaneous	2 4.9%	5 12.2%	10 24.4 %	20 48.8 %	1 2.4 %	1 2.4%	0	2 4.9%	0
Cultivation	16 17.4%	10 10.9%	1 1.1 %	5 5.4%	0	0	0	60 60.7 %	0
Labour	22 11.5%	39 20.4%	7 3.7 %	5 2.1%	1 0.5 %	0	0	116 60.7 %	1 0.5%
Self Employed	75 22.4%	80 23.9%	36 10.7	31	6	1	0	103	1
Govt. Employees	7 6.4 %	23 20.9%	13 11.8 %	32 29.1 %	18 16.4%	4 3.6%	1 0.9%	7 6.4%	5 4.5%
Business	26 14.2%	52 28.4%	27 14.8 %	29 15.8 %	9 4.9 %	1 0.5%	1 0.5%	33 18%	0
Priest / Religious work	11 32.4%	7 20.6%	2 5.9 %	3 8.8%	1 2.9 %	0	3 8.8%	7 20.6 %	0
Total	186 16.5%	241 21.4%	113 10%	161 14.3 %	49 4.4 %	9 0.8%	5 0.4%	348 30.9 %	8 0.1%

According to table-6: the persons in the unemployed category are: The girls or housewives, retired persons who are not earning, and students and the unemployed.

It is seen from the table-6 that:

1. The most uneducated are found among the cultivator class and labor class. More than 65 percent of those who are attached to agriculture and agriculture related activities are uneducated. Thus rural Muslims are the most uneducated. More than 60% of the labour class is also illiterate.

2. Self-employed persons are also found to have given less interest in educating their children. The poor parents would like their children to be with them and assist them. Here we see among the self-employed, 30% are uneducated, and more than 22% have studied up to primary level, before they started assisting their fathers in income generation activity.
3. The occupational groups with better educational qualifications are the government employees (29% graduates and 16% post graduates), those persons with private sector jobs (49% graduates) and the unemployed, who are searching for employment (more than 20% graduates and 9% post graduates)
4. The respondents with religious vocation are generally poor and in a disadvantaged position. More than 20% of them are illiterates, more than 30% of them studied up to primary, 20.6% studied up to secondary education only.
5. The respondents themselves who are in the occupation of priest or religious work have not studied in Madrasas. Out of 34 respondents, only 3 are from the Madrasa background. There are innumerable cases where the trustees and teachers of Madrasas send their own children to expensive English medium schools.

The tables 7&8 show that:

1. As the income increases, the preference for higher education as well as professional education increases.
2. In the first four categories of income groups, the preference for religious education is just 1% and in

- the income group '10,000 and above', there is 2% preference for religious education for their male child.
3. In imparting technical education almost every income group prefer the same percentage (nearly 3%) for girls.
 4. It is seen that only 1.1% respondents favour Madrasa (religious) education for their male children, while some (3.4%) of the respondents are of the opinion that Madrasa education can also be given to the male children even as Basic, Technical and Professional education goes on.
 5. For girl child, more than 30% respondents in lower income groups (<2500 & 2500-5000) prefer religious education only. While for other income groups it is 22% on an average but the higher income group prefers religious education with secular education to a higher percentage than the low-income group.

(Note: Respondents are of the view that for a girl child imparting religious education means learning to read Qur'an in Arabic and to know the basic fundamentals of Islam.)

Nearly 80% illiterate people prefer basic education for their male child, but only 32% of them prefer the same basic education for the girl child. This is because of the prevalent child labour in the illiterate category and the illiterate parents send their male children to learn skills. The contention of the illiterate parents is that a male child has to learn some skills so as to earn money, and help the family. It is seen from the tables 10&11 that 30% of the educated category prefers technical education, as they know that technical education is job oriented and in this era of downsizing of the government jobs, private jobs are necessary. Higher educated people have more (40%) preference for professional education than the less educated (12%) and uneducated (8.5%).

1. In all the educated categories just 1% respondents preferred Madrasa education for their male child but when it comes to girl child, they prefer religious education to a considerable extent.
2. Nearly 28% of the respondents from all categories prefer religious education for the girl child. And in the less educated category, 25% prefer basic education along with religious education, and 37% of the less educated category prefers basic education plus religious education and 27% of educated people prefer basic education with religious education for their girl child.
3. 20% of the educated people prefer professional education for the girl child, while 5% of the less educated and just 3% of the uneducated prefer professional education. This clearly shows that the educated Muslims are broad-minded and want their girl child to be self sufficient and financially secure.
4. As the education of the respondents increases, their priority in education for their children also proportionately increases cutting across gender barriers.

Madrasa Education in Rayalaseema

Madrasas have not been the same throughout the annals of history of India. There is a discernible difference between the Madrasas of earlier times and the present Madrasas both in aims, content and methods. To understand the current status of Madrasas in Indian society, we should first examine the historical background in which the modern Madrasas are founded.

There were two types of educational institutions in Medieval India. The 'Maktabs' attached to mosques that imparted

elementary education, particularly the teaching of the Quran. These Maktabs sustained mainly on local charity. The Madrasas that were the centers of higher learning were also of different types. Some were established by the rulers and nobles, which got huge grants. Some were established by the private scholars and ran with the help from the people and some were established by collective efforts of the neighbourhood community and subsisted on charity provided by the local people.

The techniques of instruction at Madrasas included conversation, dialogues, revision and repetition. Lower level of learning was imparted in Persian language and higher levels of studies were in Arabic. The Madrasas in medieval India had hardly any fixed syllabus¹⁴.

The curriculum was generally in four distinct grades, reading and recitation of Quran was given the primary importance and it was included in basic education. The students learn how to perform prayers in the mosques. The next stage gives them the opportunity to learn reading and writing of Arabic and Persian. The third stage was for those who intend to do government service. They learn the art of writing letters, maintaining registers, drafting documents, accounts etc. the third stage is generally the last stage for majority of the students, because they stop at this level and seek jobs. A student after completing this course can become a scholar and he can give Fatwas, instructions on religious sciences and can become a judge. The scholar can further go for other studies pertaining to Quran, Jurisprudence, Mathematics, Geography etc., This stage produced many a great men specialized in divergent fields. Thus we see that the Madrasas of those times had a functional relationship with the medieval society. The Madrasas produced the religious and those personnel who managed the medieval state apparatus, apart from producing Ulema and theologians. Rational subjects,

which were relevant to the times, were taught along with purely religious ones in these institutions. So it would be wrong to say that the Madrasas of older generations were purely of theological nature.¹⁵

The curriculum of modern Madrasas

The popular Madrasa curriculum, known as Dars-e-Nizami, was devised by Mulla Nizamuddin Sihalwi (d.1744). Prior to Dars-e-Nizami, there were different curricula based on Quran and Hadith teachings only, and those curricula were purely religious in nature, which catered to the needs of Ulema only. That curriculum had emphasis on the ‘Maqulat’ (traditional sources which were transmitted unchanged to the learner) but Dars-e-Nizami emphasized Maqulat (studies based on human reasoning) also. Thus this new syllabus had books on grammar, logic and philosophy including the religious books.

Francis Robinson writes, “The significance of the enhanced emphasis on Maqulat in the Dars-e-Nizamiyya lies in part in the superior training it offered to prospective lawyers, judges and administrators. The study of advanced books of logic, philosophy and dialectics sharpened the rational faculties and ideally, brought to the business of government men with better-trained minds and better formed judgments.”¹⁶

Though Dars-e-Nizami was outstanding in itself at that time, its relevance in the modern context is limited and there is a need to change and modernize it according to the requirement of the contemporary period. There are not only critics from the West who question the Madrasa education and its relevance, but there are many scholars like Maulana Maududi, Taha Hussain, who wanted to change the syllabus according to the times. Maulana Maududi argued that being based on memorization of religious texts, the Madrasas are not providing relevant education to the Muslim society. Taha

Hussain (1889-1973), blind modernist scholar of Egypt also raised his objection against the ossification of the knowledge contained in curriculum of the Jamia Azhar at Cairo.

The Madrasa today teach the subjects through canonical texts, which however, are taught through commentaries (sharh); glosses or marginal notes (hashiya) and super commentaries (Taqaqir). There are commentaries upon commentaries explained by even more commentaries. They have to be learned by heart, which makes students use only their memory and not their analytical powers. The assumption of the Ulema is that the golden age of the past gave them a formidable curriculum to suit the needs of the people and they contend that when all the best was written earlier itself. It has to be preserved.¹⁷

Generally Ulema oppose rational subjects like Philosophy and Maths., the subjects were rational in the sense that they represented the exercise of minds on the materials provided by the revealed sources. As such they were felt to be trivial in comparison to the basic texts, and the only merit in studying them was the preparation for their refutation. There are two reasons why Hadith study gained such prominence in the Deobandi curriculum – one was the traditional learning of Hadith was on the verge of extinction in India and another was due to the syncretic practices in Indian Islam, which were interpreted as Hindu influences on Muslims by the Deobandi Ulema. They came down heavily upon any innovation, which they considered as antithetical to their version of Islam. The teaching of Hadith is designed to create every person to be a responsible Muslim. The teaching of Fiqh is to stress the correct performance of ritual duties. The aims, methods as well as content of the present day Madrasas are different from the earlier ones. These institutes aim at shielding the private sphere of Muslims from any kind of modernist

intrusions. They hold the masses in their grip and try to impose their viewpoint by religious interpretation¹⁸.

The decline of Muslim power in India in the later Eighteenth century made the Muslim elites and Muslim religious leaders to ponder seriously over the plight of the community and suggested various ways to tackle the problem. The Muslim elite started educational movements to strengthen the base of Muslim community on modern lines with more emphasis on English and science. But there were Ulema who thought that the Muslims have deviated from the original path of Islam and forgot the Shariah, therefore, God has made them subservient to others. The only way to get their original power back is to revert to religion. Thus they gave more emphasis on starting Madrasas.

Types of Madrasas in Rayalaseema

There are different kinds of Madrasas in Rayalaseema region divided on sectarian and ideological lines. The Madrasas of Ahle Sunnat wa al-Jamat, Deoband, Ahle Hadith, Jamat-e-Islami etc., Most of the Madrasas, including the Shia ones, teach Dars-E-Nizami. Though they don't use the same texts, they teach their particular point of view (madhab or maslak) which clarifies and rationalises the beliefs of the sect (Sunni or Shia) and sub sects (Ahle Sunnat wa al-Jamat, Barelvis, Deobandi and Ahle Hadith, etc.,). These contemporary madrasas have introduced changes in their curriculum depending on their ideological predilections.

Ahle Sunnat-wal-Jamat Madrasas: these Madrasas are divided into different types based on Barelvis, Ashrafis, Nizamis and local "Pir" Madrasas etc. Ahle Sunnat justifies the custom-oriented, meditational Islam closely associated with the intercession of the Pirs of the shrines (Dargah centric). These beliefs are challenged by Ahle-Hadith and

Deobandi Ulema. The Ahle Sunnat wa al-Jamat Madrasas teach Dars-E-Nizami and they have a good appeal among the masses. The income of the Madrasas is derived from popular contribution.

Deobandi: Deoband is a small town in Uttar Pradesh. The Madrasa at Deoband was started by Maulana Muhammad Qasim Nanotvi (1833-1877) and Maulana Rasheed Ahmad Gangohi (1829-1905). This Madrasa was started with persons (above mentioned) who had both strong administrative and academic back up. It had a Chancellor (Muhtamim), a Rector (Sarparast) and a Chief Instructor. (Sadr Mudarris). Though the curriculum is based on Dars-E-Nizami, with the emphasis on the “manqulat,” the traditional sciences which were transmitted unchanged. Deoband’s syllabus is more than the Dars-e-Nizami syllabus in content. The seminary at Deoband seeks to maintain uniformity in belief and practice and determine what is true or desirable in accordance with the Quran and the traditions of the prophet.

Their income is derived from popular contribution. The Deobandi stress is mainly “Masjid centric” (They lay more emphasis on prayers in the Mosque). They oppose the folk Islam in which, Dargah or intercession by saints occupy a major place. They also oppose the folk practices such as fixing days for distributing food to gain spiritual merit and celebrating the death anniversaries (urs) of religious personages.

Ahle Hadith: The movement of Sayyad Ahmad of Rae Barielly (1786-1831) to overthrow the British is called Wahhabi movement. The name ‘Wahabi’ came in currency because of Muhammad bin Abdul Wahhab (1703-92) of Saudi Arabia who wanted to purify Islam by getting rid of the rituals associated with it. Sayyad Ahmad & his associates also have the same Ideology as that of Mohammad bin Abdul

Wahhab. They wanted reformation in Islam on the lines of puritanical appeal. They do not follow the Sunni school of Islamic jurisprudence – Hanafi, Shafii, Maliki and Hanbali. So they are called non-conformists. (Ghair Muqallid) by their opponents. As they lay emphasis on Quran and Hadith, they are called Ahle-Hadith. They oppose folk Islam like Deobandi.

Jamat-e-Islami: The Jamat-e-Islami is a revivalist political party started by Maulana Abul-Ala-Mawdudi (1903-79). Mawdudi favored a more modernist education than the orthodox groups. He asserted that we can bring western concepts and technology in order to strengthen the Muslims, but he opposed western domination in culture and secular intellectual viewpoints. Jamat –e-Islami also teaches Dars-e-Nizami. Economics, Politics and History is also emphasized with a view to preparing the young Ulema for confronting the ideas of the west. The number of Madrasas of their Jamat is very low in Rayalaseema. This is because the Jamat-e-Islami has an intellectual base rather than mass appeal.

The Madrasas here are usually run by the help from traders, philanthropists and common masses. However it should be remembered that the Deobandi Madrasas are more in numbers followed by Ahle Sunnat Jamat, Ahle Hadith and Jamat-e- Islami. The Madrasas of Deoband, Jamat-e-Islami & Ahle Hadith look down upon the customary practices of the Ahle Sunnat Jamat Muslims who are thought of as the forbearers of un-Islamic practices.

The Madrasas have been proliferating in the Rayalaseema area since the last decade and they are becoming more by the year. There are some reasons behind it. First of all the students of Madrasas will make a career in teaching in other Madrasa (some go for business and some go for mechanical and skilled works). They started small Madrasas with their own initiatives

and now running them successfully. The other reasons, which can be attributed, are the insecurity of their institutions that Muslims felt threatened after the Babri Masjid demolition, the coming up of right wing BJP to power, the proliferation and propaganda of rightwing groups like VHP and Bajrang Dal. Another reason is: Madrasas of one ideology want to dominate the other Madrasas by opening one, and making it as the agent of spreading the respective ideology.

These Madrasas work outside of normal school hours. Madrasas function between 6 am to 8 am in the morning and between 6 pm and 8 pm in the evening. Normal school education is not affected by religious instruction. In Rayalaseema area most of the madrasas teach only elementary Urdu, 'Nāzira' (how to read Quran) and 'Hifz'(memorizing the Quran). There are less than five Madrasas in Rayalaseema, which offer the 'Alim' course. The objective of these small Madrasas is not just to teach Quran and memorise it, but also teach some of the basic fundamental teachings of Islam, the traditions (Sunnah) of the holy prophet to the children and teach them how to pray. Hifz constitutes a separate branch of study within most Madrasas after the completion of which students generally go on to higher classes. The Hifz course may be of three to five years depending upon the ability of the student to memorize. There are very few Madrasas that have Hifz, English and even Mathematics is taught alongside. Most of these institutions are small and are like neighbourhood Madrasas. These are called Maktabs. The Maktabs admit both boys and girls, since "Islamic law" relating to the segregation of sexes do not apply at such a young age. It is similarly erroneous to assume that girls do not study in Madrasas. There are fewer Madrasas catering to Muslim girls as compared to boys, there is nothing specifically Islamic about it, rather it just follows the all-India pattern of gender bias in access to education.

Refuting other Ideologies

Each Madrasa has certain books, which lauds their own stand and refutes the other ideologies. All the Madrasas have the attitude of thwarting western culture and ideology. They criticize the western philosophy by one voice. But when it comes to the sectarian ideology Sunni Madrasas criticize Shia Madrasas and vice-versa. In turn in the Sunni sect there are different ideological groups. One group criticizes other groups and the Madrasas of one sub sect refute all the other sub sects and vice versa. Consequently the hate campaign in Madrasas against one's own Muslim brother has led to suspicion in the groups, a suspicion which is continuous and the situation has come to such a pass that one spews venom against the other at a slightest pretext. This is a dangerous trend that this is increasing by the day leading to friction between two subsects often. As for teaching modern subjects bigger Madrasas of all the sects and sub sects teach English, Maths and Science to some extent; Telugu language as a subject is also taught in some Madrasas.

There is always a dearth of money in most of the Madrasas. The Madrasas are run by charity and the teachers also get very less amount as salary. In the medieval age, land grants by the wealthy patrons supported Madrasas. Currently there are no patrons and every Madrasa has to raise its own fund. So many of the Madrasas cannot afford extra staff to teach Telugu, Maths, and English. It may be because of the self-help policy pursued there by the Muslim community, Urdu teaching here is integrated with religious institutions through sacred texts. But on the whole Madrasas have grown with massive support from the Muslim lower and middle classes. A majority of the children who enroll in the Madrasas are from the poor background. Most of the enrolled students do not complete the course, as they go to government elementary schools or for work. The Ustads (teachers) also are from the same socio-economic background. In a sense,

Madrasas provide sustenance to economically weak individuals. They are performing the role of providing welfare in a country, which does not have a social security net for this religious group. This being so, the influence of Madrasas on rural people and poorer sections of the urban areas will continue to increase as poverty increases.

Religious Education among women

Most of the Madrasas cater to the need of male child and for female child there are very few Madrasas.

The girl child gets religious education from her own family elders. She learns Urdu and Arabic from her mother or grandmother. Most of the girls will not go to learn Arabic; the girls may take tuitions (from ustad 'bi' who resides near their home) in the home of ustad bi (a female tutor). Or ustad 'bi' goes to teach the girls in their respective homes.

Most of the girls can be put in the illiterate category, in the sense that they can hardly read but not write. In most of the cases the ustad bi's do not know how to write Arabic either. They do not know the meaning of Arabic words. But it is a religious requirement to know how to read Arabic for performing prayers. So emphasis is given only on reading and the pronunciation of Arabic is also not in tune with the Arabic-speaking people, but it has got its own local accent to it. Once the girl reads the entire Quran under the supervision of the ustad bi, her education is over and she can be relieved of it. The girl should know Arabic reading before she gets married. When a girl gets married, she takes Quran to her husband's home. This symbolizes that she has got with her every thing that has been told by God and she should read the Quran daily. Some of the women read Quran only in the month of Ramzan.

Number of Madrasas

There is hardly any credible information on the unregistered Madrasas. However those which are registered, are controlled by the respective organizations or boards. According to official figures, there are 31,853 Madrasas in the country (2002) including 721 Madrasas in Andhra Pradesh. The Constitution has provided the minorities the right to establish institutes to teach theology. Since there is no need for recognition by the government, it is difficult to know their exact number. There is nothing wrong if the government wants to enumerate the Madrasas or appoints any agency to survey them, rather it is a necessary exercise for all religious institutions.

Portrayal: Though conservative in outlook, Madrasas in Rayalaseema stand opposite to fundamentalist Islam and contribute, as is evident from the histories of Deoband and Nadwatal Ulema, to a rather pluralist attitude among their students. Not long ago we took pride in our seminaries for their part in anti-colonial struggle. Today they are portrayed as nurseries of sedition and by this every Muslim institution has come under the intense scrutiny of government departments as well as the media. Madrasas are portrayed as the Jehadi factories by some political leaders of the right wing. The media also carry out allegations stating that Madrasas form breeding grounds for such terrorist activities carried out in the name of Islam. Thus Madrasas have come to be associated with the erstwhile Taliban rulers of Afghanistan. They are considered the breeding grounds of the Jehadi culture, but there is no substantial evidence about the allegations. Most of the accusations are biased, and untruthful. Consequently the Ulema feel themselves besieged increasingly by western critics and right wing extremists and feel that they should defend their position from inside rather than wait for sympathetic outsiders to do it for them¹⁹.

Reform: Madrasas perform a pivotal function in the promotion and presentation of Islamic learning. They also provide basic education to hundreds of poor and illiterate children. The Ulema of yesteryears were also freedom fighters and helped the cause of throwing the British out of India, but nowadays the right wing organizations accuse them in absolutely illogical stand. They have been regarded as dens of terrorism, Jehadi making factories etc. The top government officials in India also demand that Madrasas be monitored.

The previous central government had suggested all the state governments to monitor the Madrasas and intervene them in order to introduce urgently needed 'reforms'. Ulema countered this argument by saying that the sudden interest of the government in 'reform' of Madrasa education is to change the right track of Islam and to dilute the religion. Ulema consider religious teaching as a private domain of Muslims, so they oppose any change in the structure of the syllabi. They argue that the Madrasas are not here to impart modern education. But since the days of Syed Ahmad Khan and even before, moderate elites among the community have been consistently pushing the agenda for modernization and reform among Muslims.

These institutions are plagued with two major problems. First their managers brook no intrusion in their special field of instruction. A majority of them shut themselves off from the contemporary world denouncing each other and dubbing every one else ignorant, irreligious and atheistic. The other problem has been the unchanging character of the curriculum to adjust to the modern day needs. Muslim communities are faced with a different challenge, i.e. to define their agenda in response to the currents of change and progress. A standard curriculum that excludes rational success is not good enough instead there is serious need for a constructive and bold humanism that would restate and reinterpret Islamic

educational ideas in the contemporary social and cultural environment.²⁰

The Mughal emperor Aurangzeb is said to have reprimanded his teacher for having taught him Arabic, grammar and philosophy rather than subjects more practical for a future ruler of a vast empire. N. Jalbani says Shah Waliullah enunciated the pervasive ideal of enlightened Muslim leadership guided by responsible Ulema. Shah Waliullah sought an important role for the religious leadership that of advising rulers, guiding the community and safeguarding the intellectual heritage. Sir Syed Ahmed Khan also found the Madrasa Syllabus 'unsuited to the present age and the spirit of the time'. He criticized it for encouraging memorizing rather than real understanding.²¹

Apart from imparting religious education, it is at the same time acting as a tool for hegemony and control over the masses. The Madrasas are in direct contact with the Muslim masses. Religious school provides space for education and survival for the deprived, who suffer from poverty, conflict and oppression. Over the years such schools have performed a vital function (as do the Gurukulas and the Christian Schools) and cannot, for this reason alone, be done away with, they should be treated with sympathy and understanding rather than with suspicion and disdain. The constitution gives the right to religious and linguistic minorities to establish and run educational institutions of their choice, which means that the Muslims can run the Maktabs, Madrasas etc. with full freedom.

Earlier Madrasas used to be an example of secularism and they were lauded because of their struggle against colonialism. The Government also provided visas to foreign students to study in Indian Madrasas like Deoband. The Government used to show Madrasas as an example of unity in diversity by

conducting programmes on Madrasas. For instance, “Home ministry officials and All India Radio visited Deoband in 1949, and prepared a programme for the external Radio service lauding the achievements of the Madrasa to convince the Middle Eastern countries that Muslims were safe and developing in India²².”

Suggestions

The central and state governments should intervene creatively in secularizing their curriculum through consensus. The past has seen leading theologians, political activists with ideas of composite culturalism and liberal reformers. They can still be the resource of an inspiration behind rationalist thought and reformist initiatives.

What we need today is an enquiry into the nature of the modern Madrasas and how to make them modern and to serve as ‘symbols of integrity’, rather than to debate linking it to militant Islam and terrorism. Some of the state governments have to set up boards for Madrasa education and provide financial assistance to all the Madrasas. New schemes are to be made wherein Madrasas should also teach secular subjects like Science and Technology, English, Maths etc., along with the usual syllabi and the government should assist them financially. The absence of rational management practices in the Madrasa Educational board is also held responsible for thwarting progress in the desired direction. Formulation of new courses and upgradation of their content is acutely required.

It is well known that mass education and literacy have not progressed well in the Muslim community. Most children from poor, and other under-privileged families tend to drop out before completing primary education. The percentage of educated individuals among the Muslims in all the income

groups be it in high, middle or low level is low. Nevertheless it is felt that Muslim education has to play an important part to preserve the growth of a national identity.

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1. The sample method chosen is multistage area sampling. It first requires sampling a set of geographic regions. Next a subset of geographic area is sampled within each of those regions, and so on. The advantage of multistage area probability sampling is that a complete listing of the population is unnecessary. All that is required is list of towns (where Muslims are concentrated), a list of neighbourhoods within the towns selected, a list of wards/ blocks within the neighbourhoods chosen and a list of houses in the wards that are chosen. Multistage area sampling follows a rule known as probability proportionate to size (PPS), which keeps the selection probability equal for each element in the population. This type of sample has the advantage of lower cost than simple random sampling for large populations. Royce Singleton Jr and others, eds., *Approaches to Social Research* (New York: Oxford University Press, 1988), p.135.
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22. Sayyid Mahmood Rizvi, *History of Darul-uloom Deoband* (vol.1) translated by Mumtaz Hussain. F. Quraishi,

(Deoband: Dar ul uloom, 1980), p. 250. (In 1957, Dr. Rajendra Prasad, in his official capacity as the president of India visited Deoband and offered the Madrasa a token of 1000 rupees and appreciated the Madrasa in his speech).

School Dropouts among Muslim Boys and Girls

Musarrath Banu K.

Introduction

Education is considered as a mobility multiplier, a humanizing agent, an instrument of social change and an agent that has the potential of creating equitable distribution of income. The educational system in a society is responsible for accelerating the process of transforming the society's traditional ways and means of living into those of the modern ones. Population of a country can be an asset rather than a liability, if its potential is tapped properly by ensuring education for all. Hence education is the key word for human resource development." Destiny of a nation is built in its class rooms," said the great teacher and visionary Dr. S. Radhakrishna.

The 2001 census recorded that the literacy rate of Indian population was 65.35% (75.85 for male and 54.16% for female). This implies that 35% of the nation's population is still illiterate, 35% in terms of numbers involves around 35 crores, which is quite a big number. This indicates India has a huge population that is yet to become literate. Illiteracy is a stumbling block in the society's progress. The Kothari commission pointed out that "the price which the individual as well as the nation has to pay for illiteracy is very high. The illiterate is condemned to lead an inferior existence. The illiterate has little prospects of improving his income, standard of decent living and participation in the nation's economic, political and social development. Hence illiterate is not a free citizen".

The issue of literacy is a complex one in India's context, as it is a multi- group society. In India there is a high disparity in

the levels of literacy attained by different groups .For over all progress of the nation, one should keep in mind the different religious, cultural, ethnic and linguistic groups that have been living together since centuries. Hence it is in the interest of the nation to bring some of these groups that are lagging behind, on par with the mainstream society, to promote an equalitarian and integrated society.

The Statement of Problem

Indian Muslims account for 13.4% of the Indian population and they are 138.2 millions in terms of absolute numbers, this makes them the second largest religious group after the Hindus and the first major minority in the whole country.

This largest minority in India that is next only to the Muslim population in Indonesia is underprivileged, non-dominant and weaker section of country, in many respects falling behind even the scheduled castes.¹

The socio-economic and educational backwardness of Muslim community in India has been established by a number of reports, such as Gopal Singh Patel report. The report of the 43rd and 55th Round of the National Sample Survey and the Programme of action under the New Educational Policy (1986). The benefits of various Government schemes aimed at improving the socio-economic conditions of the weaker sections of society have not accrued to Muslims in any significant measure. Since Muslim constitutes a major chunk of India's population, they play a significant role in constituting a complete picture of Indian culture and civilization.

Large mass of the Muslims is quite poor and illiterate ,Muslim women are particularly more behind, for example among the Muslim women on all India level, according to

Family Health Survey (NFHS) 66% are illiterate and in Harayana Muslim female illiteracy is universal (98%) .In Assam the female illiteracy among the Muslims is 74% .In West Bengal, Karnataka, Delhi and M.P 60-65% and in states like Maharashtra Andhra Pradesh and Gujarat 50-55% of Muslim women are illiterate.

A large number of Muslims live in urban areas i.e. almost 30% and a large no of urban Muslims are artisans who come from the lower castes. It is these lower castes that are upwardly mobile compared to the so-called upper caste Muslims .It is because number of artisans are becoming small-scale entrepreneurs. However it is to be noted that their skills are by and large traditional skills and the artisans lack marketing skills. In today's globalized world, people with traditional skills cannot survive.² Maqbool Ahmed Siraj the editor of *Islamic Voice*, a monthly newsletter highlights this aspect of Muslim artisans present condition. According to the author" the I.T. revolutions and the policies of liberation has affected the Muslim way of earning livelihood for eg: - garment factory has rendered the Muslim male tailors jobless in thousands. Embroidery and Zari work have been traditional occupations with Muslims. Now computer aided embroidery machines do much work with higher degree of fineness and within a short space of time. An embroidery unit in Bangalore, which previously employed two hundred Zari workers, has now only twenty of them. It invested in computerized machines and churns out a much larger out put with less input cost on administrative work. Similarly Muslim silk reelers and twistors in towns like Ramanagaram, Sidlaghatta and Kolar are rendered un- employed, because of the lifting of the trade barriers under W.T.O. regime, which has brought in a deluge of cheaper and finer variety of Chinese silk into Indian markets. - Hence, there is a great need for the Muslim artisans to upgrade their skills. But due to lack of primary literacy among them, there is no question

of upgrading one's skills. The real problem among the Muslims today is not so much the lack of the awareness about importance of education as of scarcity of economic resources. The educational backwardness results economic backwardness and perpetuates educational backwardness. Thus it has become a vicious circle”.

Many scholars have pointed out the socio- economic and educational backwardness of Muslims in India. According to Sheikh Rahim Mondel Indian communities like Parsis, Christians and Hindus had an earlier start in educational field. While the Muslims entered into this field at a much later stage. The relative backwardness of Muslims was reflected quiet early in the census of 1911. The census of 1911 stated that rate of literacy of Muslims was only about 5%. According to 1921 census the Muslims had 11 educated males, i.e. 9% and one educated female in every 116 i.e. 0.86%; in 1931 census, the literacy figure among the Muslim per 1,000 persons was only 64.3

According to socio-economic and educational survey of religious minorities in Karnataka in 1994, conducted by Karnataka State Minority Commission, 76% of Muslims in age group of 14-16 years were not attending schools, there are only 1.12% Muslim graduates, 0.03% M.B.B.S, 0.15% B.D.S., 0.23% B.E./B.TECH, 0.01% M.E./M.TECH, and 0.005% PhDs., among the Muslims.

The survey further highlights the dismal scenario of Muslims by looking into the other areas of backwardness, the Muslim representation in government service is 1.26%, in defense service it is 0.07% and households below poverty line, i.e. income below Rs.6000 p.a.is 55%.

It is wrong to ascribe socio-economic and educational backwardness of Muslim community to its religion. There is

nothing in the Quran that puts restrictions on freedom of thought, on the contrary the Quran encourages the acquisition of knowledge, equating it with light and ignorance with darkness. Knowledge is the key word in the Quran.-4 In fact the first verse that was revealed to Prophet Mohammed(pbuh) starts with the word “Iqra”, meaning, “read”.

Some of the reasons for this condition of the Muslims is because of the negative attitude of upper class Muslims towards English education during the British rule, as they had lost their political power to the British and the masses here hesitant to utilize the educational opportunity offered by the British because of the apprehension that such an alien education would destroy their religion and cultural values. Further the antagonistic attitude of Muslims towards English education was reinforced by the distrust shown to them by the British; they thought that Muslims from whom they had seized power, had dreams of regaining their former political power. Hence the British adopted the discriminatory policy not only in terms of education of the Muslims but also in terms of recruiting them in different services especially in police and army.5

Again another impediment, which came in the progress of the community, was the partition of the country in 1947. A large chunk of the middle class Muslims migrated to Pakistan and those left behind began to feel alienated.6 But thanks to the founding fathers of the constitution, India became a secular, democratic state ensuring equal justice to all. Hence it has taken some time for the Muslim community to understand that it is as free to progress as others, some headway is being made but still relative backwardness remains

The industrial revolution that demanded a change of technical skills seems to have bypassed the Muslim

community. The concern is even IT. revolution should not march ahead leaving behind the Muslim community to languish in poverty, illiteracy and ignorance.

Hence there is a great need for the empirical studies to find out the reason for the backwardness of Muslim community in spite of the Quranic injunctions to acquire education. However, it is disheartening to note that there are very few sociological and anthropological research studies conducted on educational situation of the Muslims in India. Madan (1976) states “there is growing realization that one of the glaring gaps in Sociology of South Asia is that there has been scant attention which Sociologists and Social Anthropologists have paid to the study of Muslim communities....”. But such studies are needed for academic and practical purposes.

Objectives of the Study

The objectives of the research study are to acquire knowledge about and highlight the following areas;

1. To find out the socio-economic factors responsible for the school dropouts among Muslim boys and girls.
2. To find out the awareness among the dropouts and their parents about the importance of education.
3. To examine the level of education desired for the boys and girls by their parents and dropouts themselves.
4. To examine how the dropouts and their parents compare themselves with other communities, which have progressed
5. To access the opinion of the dropouts and parents about their own community.
6. To find out attitude prevalent among the Muslim boys and girls about education.

7. To enquire about the constrains in acquiring education by Muslim boys and girls.
8. To find out whether there is awareness about the importance given to education for all in the Quran.
9. To find out whether there is encouragement to acquire education by parents, siblings, relatives, neighbours and other members of the community.
10. To find out whether there is community effort to encourage education among Muslim boys and girls.
11. To examine whether there is expectation from the community leadership in the well being of the community.
12. To find out the extent to which availability of school and classroom situation is responsible for high dropout rate among the Muslims.
13. To examine whether the dropouts have lapsed into ignorance after dropping out.
14. To make recommendations for betterment of the plight of Muslim youth.

Methodology

This study was conducted as a part of M.Phil degree course by the researcher. It is based on structure functional approach. It is purely an exploratory study with diagnostic outlook in some cases. The comparative method has been adopted to understand the socio-economic correlatives of the school dropouts among the Muslim boys and girls. The data for the study has been gathered both from primary as well secondary sources. Various sources of information have been used while gathering data about the educational situation of Muslims. The empirical facts are collected through field investigation from the Muslims of different localities in Bangalore city.

The Field and the Study Area

For the present study it was decided to select two major localities of Bangalore city, which comprised a major representative population of poor Muslims and are easily approachable to the researcher. The localities selected for collecting empirical data have large majority of Muslim population belonging to the lower income groups, where one can get large number of school dropouts. Hence the Bada Makan area on Hosur road and Yarabnagar near Banshankari were selected for data collection. Apart from these two areas, a part of Kammanahalli and Mavalli and City Market area comprising poorer sections of Muslim population were also included, in an attempt to give universal representation to data collected.

The population in Yarabnagar, Bada Makan, and City Market area has distinct socio-economic features in its inhabitants, it comprises very poor and daily wage earners. It is a population where large majority are auto rickshaw drivers, mechanics, construction workers, women folk engaged in agarbathi and beedi rolling and young girls employed in garment factories. Hence, but for few difficulties the researcher could easily find the required number of dropouts for the study in these localities.

To obtain relevant information necessary for the research, respondents were selected from the above localities. The selection of the respondents was based on simple random technique to represent every section of these localities with particular reference to lower socio-economic strata and the age of the Respondents. To select respondents it was decided to adopt such criteria as the ability to understand the questions asked and give correct information. Hence the respondents selected were in the age group of 10-20 years.

The respondents were both male and female dropouts and their parents.

Tools and Techniques of Data Collection

The information for this study was collected both from the primary and secondary sources. The secondary data on the present educational situation of Muslims was collected from the secondary sources such as the published material like surveys, research papers and books.

The primary data were collected through conventional tools and techniques namely interviews and observations.

To obtain data although separate but related interview schedules were prepared for two sets of respondents, namely, dropouts and their parents. This was to check and for normalizing the exaggerated responses if any. If the information is sought from both the dropouts and their parents, more balanced views about the problem can be obtained, than the information provided by one respondent (dropout/parent) only. However, it is to be mentioned that the objectivity of the responses is maintained by interview schedule through its empirical design. Though the questions were in English, the respondents were interviewed in Urdu, a language that is the mother tongue of Muslims in Bangalore city.

The interviews were conducted at the residences, places of work, some times near playgrounds, streets and market areas of the locality where generally male dropouts were found, after the interview they would take the researcher to their residence for an interview with their parents, generally mother, sometimes father and both the parents. It may be noted that the place of work, which was generally a mechanic shop etc., in many cases was close to the residence of the

dropouts. On an average each interview took about 45 minutes to one hour depending on the nature of the respondents.

Data Processing and Analysis

The data collected through field study was processed after necessary checking and editing. Tabulation was done manually. Simple statistical methods consisting mostly of percentages were calculated.

Limitations of the Study

This study has major limitations. Since the empirical studies concerning the socio-economic and educational situation of Muslims in India are very limited in number, benefits of earlier studies are very limited. Hence as an exploratory study it has its own limitations.

Secondly, the study was undertaken mainly in only two localities of Bangalore city with limited number of respondents (100 dropouts and their parents), mainly on the basis of convenience. Hence the observations drawn from the study cannot be generalized too far.

Thirdly, the researcher has conducted a study of this kind for the first time.

Fourthly, the researcher had to search for the dropouts, whose timings and availability was uncertain or they were so young that they were incoherent in their replies. Therefore only 2% of the respondents were below 10 years, and rest were between 10-15 and 15-20 years of age and were mature enough to give appropriate replies to questions about their dropping out process which had taken place years back.

However, in spite of all these limitations the study may help to some extent in comprehending the socio-economic correlatives of school dropouts among Muslim boys and girls.

Some of the Important Findings

As far as the education of the dropout's parents is concerned, in majority of the cases both the parents of both male and female dropouts are illiterate. In the case of the male dropouts 68% of the fathers and 66% of mothers are illiterate. Similarly 76% of the fathers and 82% of the mothers are illiterate in the case of female dropouts.

Parents' Occupation

Almost all dropouts, both male and female, come from homes where fathers are either in skilled or unskilled occupations, such as plumbing, tyres works, lather works, coolie work, carpentry, auto driving, bus conductors, moulding, mechanic works, tinkering, horse cart riding, agarbathi packing and working as security in offices, etc.

Table 1

Table indicating literacy level of the dropouts.

Sl. No.	Level of literacy	Male	%	Female	%
1	Less than 3 rd	05	10	04	08
2	4-5	17	34	05	10
3	6-7	16	32	29	58
4	8-9	12	24	12	24
Total		50		50	

One of the glaring facts, which emerge here, is that while the male dropouts have occurred more in 4-5 and 6-7 standard level, the female dropouts are the highest in 6-7th standard level. It may be noted that girls discontinue after 7th whereas the boys dropout at 4th, 5th, 6th and 7th standard level.

Table –2

Table indicating total family income per month.

Sl. No.	Level of income Rs.	Family of the male dropout		Family of the female dropout	
		Income	%	Income	%
1	Less than 1000	Nil	Nil	07	14
2	1000-3000	13	26	15	30
3	3000-5000	16	32	08	16
4	5000-7000	08	16	13	26
5	7000-9000	03	06	06	12
6	9000-11000	01	02	Nil	Nil
7	Above 11000	09	18	01	02
Total		50		50	

It may be noted in table No. 2 that the female dropouts are comparatively poorer than their male counterparts. Highest percentage of male dropouts are found in the income range of Rs.3000-5000 and the highest percentage of female dropouts are found in the income range of Rs.1000-3000, 18% of the male dropouts are found in the income level of

above Rs.11, 000, whereas only 2% of the female dropouts come under that level. In fact, one male dropout has family income of Rs.1, 30,000 per month. It may be noted once again that in spite of relative poverty in comparison to their male counterparts higher percentage of females were attending school in class 5 and above

Table –3

Table indicating the number of respondents who are gainfully employed

Sl. No.	Response	Male respondents	%	Female respondents	%
1	Yes	47	94	12	24
2	No	03	06	38	76
Total		50		50	

It is a fact worth noting that large majority (94%) of male dropouts are gainfully employed and large majority of female dropouts (76%) are not gainfully employed.

Type of Paid Work Done By the Dropouts

Various types of paid work done by male dropouts are; lather works, carpentry, polish making, embroidery, as helpers in teashops, motor parts, chappal shop, mechanic works, tailoring, box making etc. Whereas the female dropouts are engaged in paid work such as maid servant, Beedi rolling, Agarbathi rolling, rolling of incense sticks, jasmine flower tying, working in garments factory etc.

Table 4

Showing the wages of the respondents per month (From those noted as gainfully employed).

Sl.No.	Wages Rs.	Males	%	Females	%
1	500	11	23	06	50
2	500-1000	15	32	03	25
3	1000-2000	09	19	01	08
4	2000-3000	07	15	02	17
5	More than 3000	05	11	Nil	Nil
Total		47		12	

It may be noted that highest percentage of male dropouts (32%) earn wages between Rs. 500 – 1000 per month, whereas highest percentage of female dropouts (50%) earn Rs. 500 per month

Table 5

Table indicating the school attended by the respondents.

Sl.No.	Type of school	Male respondents	%	Female respondents	%
1	Govt.	41	82	43	86
2	Private	07	14	06	12
3	Aided	02	04	01	02
Total		50		50	

Large majority of both male and female dropouts attended government schools.

Table 6

Table indicating medium in which the respondents studied.

Sl.No.	Medium	Male	%	Female	%
1	English	13	26	07	14
2	Urdu	31	62	39	78
3	Kannada	05	10	04	08
4	Others	01	02	Nil	Nil
Total		50		50	

Higher percentage of male dropouts who attended English medium schools than female dropouts. However highest percentage of both the male and female dropouts attended Urdu medium schools.

Table 7

Table indicating the distance to school attended by the respondents

Sl.No.	Distance in k.m.	Male respondents	%	Female respondents	%
1	Less than 5	43	86	43	86
2	10 k.m.	07	14	07	14
3	More than 10 k.m.	Nil	Nil	Nil	Nil
Total		50		50	

Majority of the school dropouts attended school close to their home.

Table 8

Table indicating awareness of the respondents about the availability of scholarship facility.

Sl. No.	Response	Male respondents	%	Female respondents	%
1	Yes	06	12	07	14
2	No	44	88	43	86
Total		50		50	

It can be seen in table No.8 that very few dropouts have made use of the scholarships facility, and there is not much awareness about the availability of scholarships.

Table 9

Table indicating the difficulty in understanding the lessons taught in school

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	37	74	28	56
2	No	13	26	22	44
Total		50		50	

1) Of the total male dropout interviewed, 74% had difficulty in understanding the lessons taught in school and 26% did not have any difficulty in understanding the lessons taught.

2) Of the total female dropouts interviewed, 56% had difficulty in understanding the lessons taught and 44% did

not have any difficulty in understanding the lessons taught in school attended by the respondent.

2) It may be noted that a higher percentage of male dropouts reported difficulty in understanding the lessons taught than the female dropouts.

Table 10

Table showing the reason for discontinuation of school by the respondents

Sl.No.	Reasons	Males	%	Females	%
1	Economic compulsion	12	18	19	26
2	Loss of interest	39	59	15	21
3	Parents force	03	05	22	31
4	Bad company	08	12	Nil	Nil
5	Other	04	06	16	22
Total		66		72	

Note: There are more than one reasons for dropping out.

1) It may be noted in table No.9. that highest percentage (59%) of male dropouts have taken place due to loss of interest, highest percentage (31%) of female dropouts have occurred due to parent's force. There is a higher percentage of females (26%) who have dropped out due to economic compulsions than males (18%). 12% of the males have dropped out due bad company and none of the females have dropped out due to the bad company.

2) It may also be noted that there are more than one reasons given by the dropouts. In the last category of other reasons may be included long distance to school, no school after 8th near house, no proper teaching in the school, the boy was spending more time in playing cricket than in school, friends left the school so the boy also left.

3) In the case of females brothers have played a very important role in forcing them to leave school, especially after attaining puberty, failing more than one time in the same class.

4) It should also be taken note of that a big number of females have left school due the fact that there is no school in the close vicinity after 7th standard.

Table 11

Table indicating the ability of the respondents to read and write

Sl. No.	Response	Male respondents	%	Female respondents	%
1	Yes	16	32	20	40
2	No	34	68	30	60
Total		50		50	

More than 50% of both the male and female dropouts have lapsed into ignorance, because there is no need for them to read and write later in life.

Table 12

Table indicating whether somebody prompted the respondents to continue studies

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	39	78	22	44
2	No	11	22	28	56
Total		50		50	

Higher percentage of male dropouts (78%) was prompted to continue their studies than the female dropouts (44%).

Table 13

Table indicating who prompted the respondents to continue their studies (details of those who prompted)

Sl.No.	Response	Male	%	Female	%
1	Parents	38	86	15	63
2	Political leaders	Nil	Nil	Nil	Nil
3	Teachers	Nil	Nil	03	13
4	Neighbors	01	2	Nil	Nil
5	Friends	02	05	Nil	Nil
6	Siblings	02	05	02	08
7	Others	01	2	04	17
Total		44		24	

Note: Only few respondents were prompted to continue their studies. More than one persons have prompted the dropouts.

- 1) 86% and 63% of the male and female dropouts respectively, were prompted by their parents to continue their studies. The role of others here is negligible.
- 2) There is need for the voluntary organizations to work vigorously to bring the dropouts back to schools.

Table 14

Table showing the responses regarding who should help the community to come up in life

Sl.No.	Response	Male	%	Female	%
1	Self	47	94	35	70
2	Political leadership	Nil	Nil	Nil	Nil
3	Community Leadership	02	04	01	02
4	Don't Know	01	02	04	08
Total		50		50	

Highest percentage of both male (94%) and female dropouts (70%) felt that they should help themselves for the community to come up in life. Expectations from the political leadership are Nil, and expectations from the community leadership are negligible.

Table 15

Table providing the opinion of the respondents whether they should have continued their education

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	22	44	40	80

2	No	28	56	10	20
Total		50		50	

A very important fact, which emerges here is that a higher percentage of female dropouts (80%) felt that they should have continued their education than the male dropouts (44%). Here one can see that the urge for education among females is stronger than the men.

Table 16

Table indicating whether the respondents regret for not continuing their education

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	23	46	39	78
2	No	22	44	10	20
3	Don't know	05	10	01	02
	50		50		

Higher percentages of female dropouts (78%) regret dropping out from school than male dropouts (46%). Here one can note that the urge among the females to learn is more than among males.

Table 17

Table indicating the opinion of the respondents whether education is necessary to come up in life

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	34	68	40	80
2	No	07	14	01	02

3	Don't know	09	16	09	18
		50		50	

1) In table No.17 of the total male dropouts interviewed, 68% felt that education is necessary to come up in life, 14% said it is not, 16% do not know anything about it.

2) Of the total female dropouts interviewed, 80% felt that education is necessary to come up in life, 2% felt that it is not necessary, 18% said they do not know anything about it.

3) It is a very interesting fact to note that higher percentage of females has said that education is necessary to come up in life than the males. In fact 14% of the male dropouts have said that education is not necessary to come up in life.

Table 18

Table indicating opinion of the respondents whether their community is educationally backward

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	36	72	23	46
2	No	07	14	04	08
3	Don't know	07	14	23	46
Total		50		50	

1) To the question whether their community is backward, 72% of the male dropouts said yes, 14% said no, 14% said don't know.

2) To the same question 46% of the female dropouts said yes, 08% said no, 46% said don't know.

3) A very important fact emerges here that the awareness about the backwardness of the community is more among the male dropouts than female dropouts. This is due to the obvious reasons that exploring outside life is lesser among the females in the Muslim community.

Various reasons for the educational backwardness of the Muslim community given by the dropouts are as follows

1) Poverty, Muslims don't help each other, lack of interest in studies, parents themselves are not educated, lack of intelligence, negative attitude towards education, bad company, no help from others are the reasons for the educational backwardness of the Muslims. According to one of the females there are too many restrictions among Muslims, carelessness among the young boys and girls etc.

2) More or less there is awareness regarding the reasons for the educational backwardness of the Muslim community.

Table 19

Table indicating opinion of the respondents whether other communities are more progressive in education

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	32	64	27	54
2	No	Nil	Nil	01	02
3	Don't know	18	36	22	44
Total		50		50	

1) In the table above it can be seen that, 64% of the total male dropouts, who were interviewed, felt that other communities are more progressive in education; none said no

to the same question, 36% said they do not know anything about it.

2) 54% of the total female dropouts interviewed felt that other communities are more progressive in education, 2% said no to the same question, 44% said they do not know anything about it.

3) While high percentages of both male and female dropouts have awareness about other communities' educational progress, still quite a high percentage does not have any knowledge about it.

Table 20

Table showing the opinion of the respondents about the girl's education

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Desirable	30	60	44	88
2	Undesirable	12	24	05	10
3	Don't know	08	16	01	02
Total		50		50	

A glaring fact, which emerges here, is that lower percentage of male drop-outs(60%) are in favour of girl's education than the females(88%). 24% of the male dropouts are not in favour of girl's education.

To the question what is the desirable level of education for girls?

More than 90% including those who are not in favour of girl's education said that 10th standard is the desirable level of

education for girl. Less than 10% said it could be college, II Puc, Doctor, Engineer, Teacher etc

Table 21

Table indicating opinion of the respondents whether the girl should be allowed to acquire as much education as a boy

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	15	30	27	54
2	No	20	40	20	40
3	Don't know	15	30	03	06
Total		50		50	

It is to be noted in table No.21 that higher percentage of female dropouts(54%) are in favour of girls acquiring as much education as their male(30%) counterparts, than male dropouts.

Table 22

Table indicating opinion of the respondents whether the girl's education will help her in looking after her family in a better way

Sl.No	Response	Male respondents	%	Female respondents	%
1	Yes	14	28	25	54
2	No	28	56	22	40
3	Don't know	08	16	03	06
Total		50		50	

A very glaring fact, which emerges here is that higher percentage of female dropouts (54%) feels that education helps a girl to look after her family in a better way than their male counterparts (28%).

Table 23

Table indicating whether the respondents have read Quran

Sl.No	Response	Male respondents	%	Female respondents	%
1	Yes	21	44	25	50
2	No	26	56	05	10
3	Still Learning	03	06	20	40
Total		50		50	

A higher percentage of female dropouts (50%) have read and are still learning Quran than their male (22%) counterparts. This shows that the community gives more importance to the religious education of a girl than boy.

Table 24

Table showing whether the respondents comprehend the meaning of Quranic verses (this question was addressed to those who had read Quran)

Sl.No.	Response	Male respondents	%	Female respondents	%
1	Yes	Nil	Nil	Nil	Nil
2	No	11	100	25	100
Total		11		25	

1) It can be seen in table No.21 none of the dropouts, both male and female comprehended the meaning of Quranic verses, even if they have read the Quran.

2) This question is included because the Quran often emphasizes the importance of education for both male and female, and the Quran is read in its Arabic version only.

Parents' Responses

Table 25

Table indicating reasons for the dropping out of their wards, as given by the parents

Sl. No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Economic Compulsion	08	16	12	24
2	Loss of interest	27	54	09	18
3	Parent's force	03	06	15	30
4	Bad Company	08	16	03	06
5	Household chores	Nil	Nil	04	08
6	Others	04	08	7	14
Total		50		50	

1) It may be noted that loss of interest is one of the major reasons for the males to dropout, then comes bad company and economic compulsions, household chores is not at all the reason for dropping out.

2) For the female dropouts, parent's force is one of the major reasons for dropping out, and then comes economic compulsions, loss of interest, other reasons, household chores and bad company. It is an interesting fact to be noted that higher percentage of female dropouts are because of economic compulsions than their male counterparts.

3) Under the reason other may be included such reasons as no eighth standard close to the respondent's house, the boy was not studying well, underwent appendix operation, stammering problem of the dropout, difficulty in climbing the buses, not able to read and write, wasting time in playing cricket and not going to school made the parents to make him work in the mechanic shop, inability to pay fee, children's earning supplement the family income, attitude that Government does not do anything about the Muslims, education is no guarantee for securing a Government job, failing two times in the same class, falling sick, change of the medium of instruction from Urdu to Kannada leading to loneliness of the boy, could not make friends with Kannada speaking boys and inability to pick up Kannada medium from Urdu, during the course of studies. Such parents might have done well to admit their wards in Kannada medium from class I.

4) For female dropouts, reasons such as brother's accident, mother's T.B., mother's death, marriage being arranged, in several cases brothers have forced the girls to leave school. Large family, father deserting the family leading to the discontinuation of children's education and forcing them to work, the girl not being able to cross the road, girls attaining puberty, school insisting on wearing short skirt uniform, change of the medium of instruction to Kannada leading to loneliness of the girl could not make friends with Kannada speaking girls (these other reasons are given both by the parents and the dropouts in their respective interviews).

Table 26

Table showing whether the parents have a cordial relationship

Sl.No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Yes	18	36	22	44
2	No	32	64	28	56
Total		50		50	

The glaring fact to be noted is that almost 64% of the male dropouts' parents and 56% of the female dropouts' parents have said that there is no cordial relationship between the husband and wife. Naturally unhappy homes, not favourable for education become a reality.

Table 27

Table showing whether the father of the respondent has any bad habits

Sl.No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Yes	19	38	20	40
2	No	31	62	30	60
Total		50		50	

1) An important fact to be noted here is that 38% of the male dropouts' mothers and 40% of the female dropouts' mothers have reported bad habits of the father.

2) The mothers, who reported bad habits of the fathers, specified the bad habits as drinking, having one more wife,

leaving their family and going away to another woman etc. The parents who reported bad habits of the fathers were mothers.

Table 28

Table showing whether both the parents are interested in the child's education

Sl.No.	Response	Parents of Male Respondents	%	Parents of Female Respondents	%
1	Yes	37	74	07	14
2	No	13	26	43	86
Total		50		50	

A glaring fact which emerges here is that 86% of the female dropouts' parents reported that both the parents are not interested in their ward's education, only 14% said that both the parents are interested in their wards' education, whereas 74% of the male dropouts' both the parents take interest in their ward's education, and only 26% of the male dropouts' parents reported that both the parents are not interested in their ward's education.

Table 29

Table showing which parent is not interested in the child's education. (If the above answer is no)

Sl.No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Father	02	15	06	14
2	Mother	08	62	17	40
3	Both	03	23	16	37

4	Others (brother)	Nil	Nil	03	07
Total		13		43	

1) 15% of the male dropout’s fathers are not interested in their ward’s education, 62% of mothers, 23% both the parents, Nil others (brother) are not interested in their ward’s education.

2) 14% of the female dropout’s fathers are not interested in their ward’s education, 40% of mothers, 37%of both, 7% others (brother).

Table 30
Table showing whether discontinuation of the child’s education has helped the parents

Sl.No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Yes	39	78	37	74
2	No	11	22	13	26
Total		50		50	

Percentage of parents who said they have benefited by their ward’s dropping out is more or less same for both the male and female dropouts. Higher percentage of both male and female dropouts’ parents reported that they have benefited by their ward’s discontinuation of education.

Table 31
Table showing in what way the child’s discontinuation of education helped the parents (Relates to only those parents who felt their ward’s dropping out has helped them)

Sl.No.	Response	Parents of Male respondents	%	Parents of Female respondents	%
1	Adding to family income	33	85	07	19
2	Helping in household chores	Nil	Nil	30	81
3	Others (Learning work)	06	15	Nil	Nil
Total		39		37	

1) 85% of the male dropouts' discontinuation of education helped their parents in adding to the family income, only 19% of the female dropouts' discontinuation of education helped in adding to the family income, as reported by their parents.

2) Whereas 81% of the females dropping out helped their families in helping with household chores. 10% of the male dropouts are learning work; none of the female dropouts are learning work.

Let us Discuss the Measures for the Educational Advancement of the Community

Nursery School

One of the major missing links identified in education of these children is absence of a nursery school. The community leaders and people of the area should try to secure an *Anganwadi* sanctioned for their areas. Voluntary organizations of the community can organize such nursery schools.

Role of School Development and Monitoring Committee (SDMC)

Most of the children go to government schools in Urdu medium. Each government primary school has a School Development and Monitoring Committee (SDMC) in which parents' representatives among other local people's representatives are there. These committees should become active and do interalia the following things:

- All issues with Government departments such as filling up of vacant posts, supply of teaching and learning material (TLM), prompt supply of textbooks etc. should be taken up with the departmental officers.
- Should watch the teaching and learning process in school, by making surprise visits to classes. The SDMCs should also randomly check homework given by teachers and compliance of doing the same on the part of the students. In brief these committees should improve the teaching/learning capacity of the schools.
- These committees should also raise donations from the public to improve facilities in the school.

Motivational Effort

There is need for organized motivational effort from outside the families, by voluntary organizations consisting of members from well to do and well educated sections of the Muslim society. Each of these organizations should take up one or two localities of the type, which are studied under this report. They should survey the whole locality by means of a family based census of each family collecting all relevant socio-economic and educational details and preserve family-wise data on their computer, before commencement of their

work in any locality. This data should be periodically updated. The volunteers of the organization should periodically visit the families and study the problems connected with educational needs and help the students to resolve such needs.

Organization of continuing education out of school hours in government schools or private and aided schools will succeed. The state government can start 'continuing education' in timings convenient to dropouts, which coincides with out of school hours to learn up to 10th standard and pass the same. It is learnt that Akshara Foundation is doing good work to educate the gainfully employed dropouts with the permission of the persons with whom they are working. We need to make more branches of Akshara Foundation working in Muslim localities also.

Imparting Skills in Education

Training in skills while at school for improving employability appears to be necessary. Therefore the syllabus for vocationalisation of education should be formulated by education department by drafting a panel of experts who are conversant with the employment needs of a dynamic economy. It would perhaps be appropriate to quote from Dr. Amartya Sen, the Nobel laureate to indicate how China is using its educated manpower by giving them appropriate skills. In his book entitled 'The Argumentative Indian' published by Penguin Books Ltd in 2005, on page 198 Dr Sen states: *The products that China exports to the outside world include a great many that are made by not particularly highly skilled labour, but schooled and literate labour. Nevertheless their production generates much employment with great deal of income going to poorer sections of the community. Utilization of the world market for such exports requires production according to specification, quality control and an informed consciousness of the economic tasks involved. Good school education is*

central to these tasks. Similarly good health is extremely important if productive effort and economic schedules are not to be affected by illness and intermittent absence’.

Female Education

Though female education is considered desirable by both respondents, and parents of respondents but when asked whether girls education is as important as boys education, a big majority of parents of both boys and girls as well as a majority of boys and (40%) of girl dropouts also felt relatively girls education is not so important. This speaks of the Muslim society’s mindset. This has to undergo a change, if the community has to progress. In fact, from all available facts in this research the girls, wherever they have been allowed to study have proved to be better than boys .Thus this subtle urge on the part of the girls to study should be used by voluntary organizations to motivate the parents to educate more and more girls.

Voluntary Efforts

The researcher has placed great reliance on voluntary efforts on the part of well to do sections of the Muslim community. Although as seen from table 45 there is at present Nil expectation from political leadership and negligible expectation from community leadership. This leadership has to emerge and voluntary efforts organized. Therefore the Muslim intellectuals and well to do sections of Muslim society should come together and raise funds and take proactive role in bringing up their brethren from the depths of illiteracy, lack of skills and help them to do better in life. Unless such voluntary efforts are mounted, it is difficult to foresee the community to rise and face the challenges, which advancing economic growth will bring in its wake.

It is compulsory for the government school teachers to conduct dropout survey every year, to bring these dropouts back to school and give them extra coaching during summer vacation. It has come to the notice of the researcher that the teachers do not report any dropouts in their areas to avoid working on holidays if dropouts are listed by them. There is need to have some teacher-friendly policies with financial and promotional incentives attached to them to encourage teachers to bring the dropouts back to school. In fact, the Education Department would do well to advise foundations like Azim Premji Foundation to earmark some funds as incentives for teachers to re-educate the dropouts and make them show definite results by enabling some percentage of dropouts to pass 10th standard examinations as external candidates.

Friday sermons in mosques can concentrate on social issues afflicting Muslim community including the importance given to education by the religion. This has the potential to give rise to a renaissance in the Muslim community.

Educational backwardness and economic backwardness of parents as the reasons for creating circumstantial milieu, which leads to dropouts in the community. Therefore we will marginally touch this issue. We will confine ourselves to the type of jobs done by target group which we have surveyed.

The following suggestion may be taken note of **for upliftment of economic condition of the community:**

- Large majority of the Muslims surveyed are pursuing skilled or unskilled occupations. They do not have their own units and work for others at meager wages. These artisans/mechanics need to be helped to get self employed to earn more.

- Self-employment calls for finances as well as organizational ability to manage their enterprises, however small. In so far as state Government is concerned, it has a Karnataka State Minorities Development Corporation, which provides marginal money for worthwhile projects and links them to banks for loans. There are also several benefits given by the Department of Minorities, Department of Women and Child Welfare along with its Women Development Corporation also gives assistance of marginal money etc and provides linkage to banks in schemes of self employment like udyogini and stree shakti to women irrespective of religion.
- Then there are several anti-poverty programmes of the Government about which awareness is not there in the weaker sections of the Muslim community. Awareness camps should be organized in Muslim localities so that they may avail of the benefits.
- The Muslim voluntary organizations should form self help groups of these sections and help them to secure benefits of finance from financial institutions and help them to organize their enterprises in an effective manner.
- As suggested by Asghar Ali Engineer in one of his articles we can have Zakat Boards in every state with persons of known integrity heading them. Since Zakat under which every Muslim who has savings after meeting his expenses has to contribute two and half percent of savings for charity to the poor and needy, will go a long way in meeting the financial needs of small enterprises of these artisans.

In brief, the community will have to learn to stand on its own feet and make itself a rightful partner in India's economic and educational progress.

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Indian Muslim: Prospects and Retrospect

Zahoor Mohammad Khan

Indian situations and issues are generally complex. It is more so in cases of multi-variate analysis of experiences and developments at macro level. Problems and issues concerning Indian Muslims fall in this category with added complications due to the paradox of their entitlement of equal constitutional and legal rights along with increasing participation in political processes on the one hand and their perpetual backwardness in almost all sectors particularly education, economy, social alienation etc. on the other. Attempts to analyze the issues concerning Indian Muslims are scanty and hasty. More importantly, there has been a growing and designed campaign against them through a developed mechanism of myth and hatred creation. Muslims are also viewed as a community to react sharply on emotive issues set by vested interests against them. Hence, it is a difficult proposition to attempt to look into such issues without indulging into generalizations particularly in a situation of availability of meager data resource base about them.

It seems pertinent to elaborate a little on the paradox of Muslims in India where they are granted and guaranteed equal rights in general and special provisions as a minority for their protection and development by the constitution, the legal structure, and the assurances of leadership specifically during the Constituent Assembly debates etc. Indian Muslims have shown respect for legal structure and allegiance to Indian constitution along with their active participation in political processes. Thus, they are granted rights and participate in Indian politics. The figures show a convincingly high percentage of their participation in elections. But, the curve, showing their share in different fields like education, economy and employment is going down year by year. Their

conditions are deplorable. According to the National Sample Survey Organization (NSSO) survey (1987-88) the number of Muslims living below the poverty line is worked out to be more than 35 million out of a total Muslim population of 76 million.¹ By now the figures would have gone up with the increase in Muslim population.

The survey further reveals the Hindu-Muslim divide in the areas of education particularly in urban areas the incidence of illiteracy among Muslims is more than 50 percent as compared to 33 percent among Hindus. Another study reveals the following figures: a sample of 73 commercial departments and enterprises of the Public Sector shows (a) only 6 Muslim directors out of total of 484 (1.2%); (b) out of 6,465 directors of Public Limited Companies, only 110 are Muslims with only 8 among managing directors; (c) out of 2,421 private limited companies, there are 33 Muslim directors including 4 civil servants; (d) out of 4,913 officials in a sample of 13 private limited companies, 59 are Muslims (1%); (e) in a group of 2,832 industrial establishments only 4 units are owned by Muslim industrialists; (f) out of 6,00,000 small industrial units 14,000 are owned by Muslims; (g) 6 are Muslims out of 416 secretaries including joint and additional (1.2%); (h) out of 1,753 IPS officers, only 50 are Muslims (j) of the total 698 directors in Board of Directors of 21 public sector banks and financial institutions, only 10 are Muslims.²

In this context, it is a common belief that Muslims are one of the most backward communities of India and they do not figure more than 3-4 percent in any sector of educational and economic development.

In an attempt to focus on analyzing the problems and issues of Indian Muslims the treatment would be categorized into three segments, namely; i) the challenges faced exclusively by

Indian Muslims as a community; ii) emerging positive trends and iii) suggested remedial parameters.

Challenges Faced Exclusively by Indian Muslims

The process of decolonization in India acts as a backdrop to analyse ideational and practical challenges faced by Indian Muslims as it was coupled with the partition of India, mass migration and mass communal violence of unprecedented scale and quantum. The sparks of hatred and revenge in the eyes of displaced persons from Pakistan and of reproach and suspicion in the eyes of their non-Muslim neighbours aroused in Indian Muslims a strong and complex feeling of being responsible for others' actions. A sense of grief and anger on the part of Indian Muslims was soon converted into a sense of guilt of creating Pakistan. It was augmented by malicious propaganda of communal forces as the prevailing environment suited them most for misinformation.

Muslims in India, especially those in North India, had to pay not only in the form of spiritual and mental anguish but also in terms of economic depression, educational and cultural backwardness.³ The whole lot was in the grip of insecurity, uncertainty and bewilderment. Those who had migrated had to face problems coming out of mass exodus and resettlement and those who opted to remain in India were undergoing a different set of challenges. Special mention may be made of effects of non-prepared state of mind for abolition of *Zamindari*, *jagirs*, princely states during post independence phase and large-scale migration of higher and middle classes that created a big vacuum. Mass violence and evacuee property regulations were misused in blatant style by vested interests to make Muslims face economic hardships. At the time of independence, five classes of Muslims could be identified. Those *Zamindars* who were not cultivating on their land and were dependent on land rent. After

Zamindari abolition they became rudderless. The *Zamindars*, who cultivated their land could survive. The service-based middle class among Muslims got a severe jolt due to migration, hence Muslim middle class in India remained only for name sake. The other category pertains to traders and artisans. This class could flourish a little and was able to develop some infrastructure at places like Varanasi, Bhagalpur, Moradabad, Firozabad, Bhiwandi, Surat etc. Small farmers also got marginal benefits of development of agricultural technology.⁴ So, these hardships created unprecedented social tensions and educational backwardness for the community.

More serious were the challenges emanating from the state of confusion and doubt on intellectual and ideational plane. During the freedom struggle, there emerged three prominent schools of thought among Muslims. But, all of these contained elements of inner inconsistencies and contradictions, which surfaced in a big way after independence. The secular communalists did not realize that the western culture they admired was the negation of communalist's principles. Second school was of religious Muslims. They failed to understand that the Indian nationalism and struggle for liberation, which they supported whole heartedly with religious vigour, was basically based on modern liberal outlook and western methodology. It could not go a long way with them and could serve only a timely requirement due to its inherent inconsistencies. And, finally the Muslim secular nationalists made the mistake of using religion to back their demand for freedom and for mobilizing a support base among Muslims. Eventually, they tried to come closer to Muslim *Ulama*. These contradictions blurred the vision and paralyzed Muslim mind during the post-independence phase.⁵ It created a situation of confusion and vacuum on ideational level.

Independent India as a nation preferred to adopt a western liberal democratic political model. It tried to pick up a most modern democratic political structure borrowing from all over the western countries and structured the Indian constitution.⁶ It reflected an attempt to evolve an instrument of securing liberal, secular and egalitarian objectives based on liberty, equality and social justice. However, it was made to operate with orthodox and tradition-bound variety of social structures and practices. These social forces were not in tune with the political set up, hence, scores of tensions. Both of these dichotomous structures were made functional with already exploited economy by the colonial powers. The nascent economic infrastructure suffered from in-built exploitative mechanism and inequalities. Indian Muslims had to bear the burden of these tensions in a more general sense with other backward and weaker sections of Indian society, but they had to suffer in an exclusive manner in more specific situation due to communal propaganda and the myth creating mechanism.⁷ The rise of ideology of Hindutva and effects of communal politics are obvious areas of concern. In certain situations administrative organs failed to respond adequately to social and economic needs of Muslim community and even extra-constitutional methods adopted by vested interests came to play overwhelming role in public affairs. This obstructs the working of legitimate institutions and destroys the very apparatus of relief and conflict resolution. Muslims in India have a long list of such strains and prejudices ranging from communal violence to discriminatory laws like TADA. Besides these tensions, dominance of certain interest groups and political parties in decision making constitutes another source of hardships.⁸

Indian society is highly plural in its character and composition. During post independence phase, three strategies to deal with the pluralistic character of Indian society emerged. These were based on Hindutva, secular

nationalism and socialism. The forces of Hindutva could politicize religion with the help of political strategies. They are viewed as integrationists, who believe in the concept of Hindu nation and nationalism. Their main target has always been the Muslims, but they have now included other minorities as well like Christians and Sikhs etc. They do not recognize minorities as constituents of Indian society. Their message is clear, loud and constant. Deen Dayal Upadhyaya said way back in 1962 when he was the general secretary of Jan Sangh.

The minority denotes a section of the people living in this land but belonging to some other nation.... Due to some historical circumstances they have imbibed foreign traits. They have to be resurrected and rehabilitated.⁹

This theory is particularly directed against Muslims. Present Sangh Parivar represents this strategy. The second approach may be termed as the secular nationalist represented by Gandhi and Nehru. They recognize the rights of minorities and other groups and every citizen's right to equality, liberty and justice. This line holds the principle of secularism with no state religion and state patronage to any particular religion. They believe in respecting everybody's rights, hence, no special sincere measures to protect or push the Muslims as it may hamper the rights of other sections. This contraction has never allowed them to be committed to Muslim cause in genuine fashion. Finally, the socialist approach does not reject secular viewpoint, but it holds the principle of separation of religion and politics. It is critical of measures against Muslims but cannot go beyond a point to support them. Eventually, these approaches do not provide a support base to Muslims but only some supporting voices at some incidence of injustice or violation of their rights. The

track record of all approaches is available to prove the point. It believes in the principle of tolerance towards religious communities, but no commitment to protect them as a national responsibility.

One of important areas of concern has been the image-making role of media about Indian Muslims. The Indian media to a large extent falls victim of its communal, class and caste prejudices. Stereotype views and myth-based information are made available about Islam and Muslims by international and national media. To a considerable extent it creates a fractured and distorted understanding of political history and developments in India. The false, distorted and unrealistic portrayal of Muslims in a significant section of the press renders the community condemned in the eyes of other communities. It leads to a climate of suspicion and mistrust. Yoginder Sikand quotes Maqbool Ahmad Siraj, former editor of Features and News Alliance (FANA) to the effect that, 'besides the naked physical assaults on the Muslims, they are also made victims of subtle and insidious intellectual assaults in the form of negative portrayal of their religion and themselves as a community in the media'.¹⁰ Thus, a rightful Muslim insistence on continuation of the *Shariah* or the Muslim Personal Law is considered an obstacle to national unity, an adherence to stubborn orthodoxy and an aberration in the perception of secularism.

Minority rights, while being defended by the section of national press, are often dubbed by a significant section of the print media as discriminatory and any ameliorative measure for the distressed minority is labeled as minority appeasement. An article carried by the Times of India declared 'the safeguards provided in the constitution for the minorities are threatening to blow up the secular state'.¹¹ Issues like reservation in employment are portrayed as anti-secular measures. The Maharashtra government's

decision to wind up the state minorities commission received mixed reactions. A paper like Hindustan Times hailed it as a 'right step'.¹² But the Statesman came down heavily upon the state Chief Minister.¹³

Emerging Positive Trends:

Independent India may rightly claim credit for its political and legal structure guaranteeing constitutional rights, secularism, and liberal democratic system. Indian Muslims have also participated in these processes. In some ways, they are benefited even by negative forces on the level of experience and facing the hard realities of life. Thus, a few positive trends are discernable. Participation in democratic processes has generated a sense of confidence and they know that other non-Muslim sections of Indian society are also suffering the same way on one ground or the other like caste, region, culture and gender. And, eventually, the Muslims have come out of the complex of being responsible for partition of India.¹⁴

During post 1970s, Indian Muslims are able to acquire an all India political identity for themselves. It was up to early 1970s that the question about acquisition of political identity of Muslims was being frequently raised in seminars and discussions. One may be reminded of the opinion about Indian Muslim's identity in early phases of independent India. Muslims were supposed to have more cultural identities like those of Bengali, Punjabi and Tamilian etc. than the religious bloc. It was believed that a Bengali Muslim would prefer a Bengali non-Muslim over a Tamilian Muslim. This may hold true even today. But Indian Muslims have developed an all India attitude and consciousness over a set of common issues like those of the rise of Hindutva, communal riots, demolition of mosques and discriminatory attitude of sections of police forces etc. Moreover, Indian Muslims have learnt

little strategies in regard to regulating their voting behaviour. They resort to two pronged election strategy along with other viable groups of Indian community suiting to local and national elections. Anti-Congressism was quite high that developed as a reaction to inaction of or partisan attitude of the party in matters like demolition of Babri Masjid, pre-planned communal riots, discriminatory execution of draconian laws like TADA, soft peddling with parties like Shiv Sena, B.J.P etc. However, the rise of all-India political identity of Muslims may not be attributed to any Muslim initiative, efforts or strategy: it is a phenomenon created basically as a result and reaction of Sangh Parivar's policies and actions. The Parivar has developed right wing extremism as political strategy, defying anything coming in its way including the Indian Constitution. One of the most important issues of Indian governance under the present coalition government is figuring to be 'the Review of Indian Constitution'; Prafula Bidwai in one of his articles writes:

The brazenness is not only integral to the BJP politics. It is a component of the Sangh Parivar's strategy to cultivate the image of the unpredictable, awesome, unstoppable, primordial force that derives its strength from sources deep in this society's (or its majority's) 'Psyche' and which has been granted a fearsome special status by an effete and compromised state, and is itself in the grip of a legitimization crisis.¹⁵

Muslims in India protect and project their identity based on their national consciousness and attitude. Muslim politics in India, eventually springs from its religious minority character which is legitimized by the international and national legal frameworks.¹⁶ Identity-based grievances and their articulation form a constant theme of Muslim politics. Of late, Muslims

are showing signs of political assertion for their rights. Such issues are generally supported by a considerable section of Indian intelligentsia like those of TADA (Terrorist and Disruptive Activities Act), losses of lives and property in communal riots and other marginalisation measures.

Indian Muslims have also tried to come out of a romantic and complacent world view of their past. In the initial phases of independent India they were placed in deplorable socio-economic conditions. Migration of Muslim elite to Pakistan complicated the situation. But soon after a new generation of Muslims traditionally engaged in government services had come out of schools with a good knowledge of Hindi and started, though in small proportion, creeping in the lower and middle grade services.¹⁷ Over the years there is a marginal rise of professional elite among Indian Muslims. It must not be misunderstood for its proper growth rate among Muslims. According to Gopal Singh Commission Report of 1980, the Muslim representation is far below than the required like 3.27% in IAS, 2.7% in IPS, 3.37% in IFS and 1.56% in Central Subordinate Services. There are many other surveys which reflect the same proportions. Some Muslim organizations like Hamdard Education Society and the Institute of Objective Studies have compiled data which further confirm the same trend. In the realm of programmes and schemes initiated by the government, there are quite famous exclusive schemes like; i) 15-Point Programme, ii) National Minorities Development and Finance Corporation, iii) National Minorities Commission, iv) Increase in Haj quota, v) Area Intensive Programme for Educationally Backward Minorities, vi) Constituting of riot-task force etc. But the implementation part has been highly dismal. A.R. Antulay, former Chief Minister of Maharashtra and Union Minister has said: 'During my 53 years of public life in the post-independence era certain special privileges and concessions were allowed to be declared. I repeat allowed to

be declared by Government in favour of the minorities. Now in practical terms the declared concessions, facilities and extra privileges were never extended to them. The declarations thus remained a mere slogan'.¹⁸ However, a thin layer of competent and competitive professional elite has emerged among Muslims. During 1990s there has been a mushroom growth of Muslim forums. Their performance is not upto the mark but it marks a beginning in right direction. Muslims are showing signs of maturity in reacting on emotive issues like reservation of jobs, handling of *Idgah* case in Karnataka and the issue of uniform civil code etc. In areas of education and social reforms a number of organizations are working to evolve a viable perspective and strategy. The All India Muslim Personal Law Board organized a Social Reformation Conference in Lucknow in August 1994. Over 3000 Muslim intellectuals attended it and resolved that 'Muslims (in India) should adopt a sober pattern of living and make themselves morally good and practically useful to the country and the community so that they emerge as a dynamic, progressive and strong society'.¹⁹ An excerpt from an article appeared in the Telegraph, Calcutta may provide supporting evidence:

Fortunately, the young generation of Muslims is developing a positive attitude... They should remain undeterred by the comments and actions of a few and come forward to attain their rights and privileges as Indian citizens. They need to consider themselves as integral part of the nation ... Indian Muslims should have faith in their abilities and take the initiative in the constructive task of nation building.²⁰

Many other organizations like the Institute of Objective Studies and its affiliated bodies, the Indian Association of

Muslim Social Scientists, the Milli Council, the Al-Amin, and the Hamdard Education Foundation etc. have developed their think tanks and organizational infra-structure to do constructive work in the direction of harnessing professional and educational elite among Muslims.

A significant trend may be marked in the form of withering away of the imposed leadership among Muslims and a possibility of emergence of genuine leadership from within the community. It was during 1970s and 1980s that a significant change was noticed in the context of Muslim issues and the scope of agenda was expanded to include more concrete and dynamic issues relating to socio-economic upliftment and sharing more political power such as proportional representation in legislatures and local bodies and reservation in services. But again the community was in emotional frame on issues like Shah Bano case or Babri Masjid dispute. However, Muslim leadership has witnessed a few significant changes during 1990s specially after the demolition of Babri Masjid. First, contrary to the earlier trend, Muslim intellectuals could break their silence and have come forward to express through organized forums and associations. Secondly, the emergence of Muslim backward class movements with a view to organize Muslims of lower strata consisting of a wide range of professional groups such as craftsmen, artisans, weavers, washermen, vegetable and fruit sellers etc. Thirdly, instead of preparing homogeneous packages of demands for the entire community Muslim leaders are laying stress on the identification of their diverse smaller groups and regional socio-economic, educational and political interests.²¹ In October 1995, three conventions in Calcutta, Mumbai and Hyderabad were organized on the educational problems of Muslims by different organisations.²² In December 1995, the U.P. *Rabeta* Committee in collaboration with more than a dozen active organizations all over the country organized an All India *Taleemi* Caravan.

One important factor is that all sections and organizations are associating in these efforts. The Institute of Objective Studies (IOS), the Indian Association of Muslim Social Scientists (IAMSS) and the Milli Council etc. have been highly active in these areas. There were series of conferences on Empowerment of Muslims in Hyderabad, Delhi, Patna, Calcutta, Chennai and Aligarh organized by the IAMSS. One may find eminent intellectuals and *Ulama* including vice chancellors, members of Minority Commissions, journalists and bureaucrats coming together and showing zeal to work and organize efforts on scientific lines.²³ In Ahmedabad also a three day meeting of Muslim elite and non-Muslim secularists was organized on problems of education and employment, the non-working and corruption within Muslim institutions, reforms and rights of Muslim women etc.²⁴ In Patna, on 21 December 1996, an international conference was organized jointly by Muslim Education Conference and American Federation of Muslims. The IOS and IAMSS along with other organizations may be credited with bringing all shades of Muslim elite on a common platform. About Patna event, S. F. Rab writes with a sense of satisfaction, 'For the first time such a cream of society was witnessed in post-independence India which appears to be an encouraging trend among the Indian Muslims and obviously the quality of Muslim leadership is likely to be improved in coming years both in content and tone.'²⁶ In this regard, another significant development of 1990s is the emergence of Muslim Backward Class Movement. On 29 August, 1996 more than 30,000 OBC Muslims were in Delhi and demanded all the benefits given to Hindu OBCs be given to them.²⁷ Similarly in Patna there was a large number of backward class Muslim intellectuals on 9 April 1997 under the aegis of 'All India Backward Muslim Morcha'. They demanded reservation for Dalit and backward Muslims and implementation of Gopal Singh Commission Report. This development is significant

in many respects. It may lead to secularization of Muslim issues.

The voting behaviour of Indian Muslims is a long story involving multiple factors and shifts over different periods of time. In brief, it may be observed that in first three general elections Muslims voted en bloc for the Congress because of its dominating position and secular credentials. But, it started having compromises to the extent of joining hands even with the RSS in 1967-69 and 1977-80. Thus, Muslims started moving away from the party with a view to joining other secular parties. In 1984 elections Muslim *Majlis-e-Mushawarat* prepared a list of 68 candidates of whom 39 were Hindus belonging to 15 different political parties and canvassed for them. It is an evidence of Muslims having non-monolithic voting behaviour and their secular approach to the electoral process of the country.²⁸ The effort of Muslims to support secular regional parties got strengthened election after election during 1990s. Syed Shahabuddin in his article observes:

Muslim Indians have long been considered by friends and foes as monolithic community. But in every region where they are concentrated, the common problems and aspirations vary in priority and intensity. Their regional reactions can be understood only in terms of their interaction with their immediate political, economic, social and cultural environment.²⁹

The political behaviour of Muslims should be looked into the background of polarization of Indian masses on caste and regional lines resulting into the emergence of coalition governments and withering away of dominant party system. Secondly, there has been consolidation of Hindu Communal

Forces in organizations like the RSS, BJP, VHP, Bajrang Dal, Shiv Sena etc, all of them targeting Muslims and the Muslim social order. Yet, Muslim reaction has been remarkably restrained and limited to the protection of their identity. They cast their lot with secular parties. Zoya Hasan feels that Muslims are united to the extent that they would not vote for the BJP. And, they may go for the candidate, who can defeat the BJP candidate. In brief, it may be concluded that all parties are realizing the electoral strength of Muslims. If they carve out strategies, their importance and share may go up.

The *Madrasa* education system in India provides a considerable network throughout the country. It is difficult to give a reliable figure of actual number of *Madaris* in spite of some surveys by organizations like the Hamdard Education Foundation, Institute of Objective Studies and National Council of Educational Research and Training etc. However, in 1969 according to Maqbool Ahmed, there were about four thousand *Madrasas* in the country.³⁰ As per NCERT survey in 1973, there were 1033 *Madrasas* in the country. But this figure is highly faulty as it mentions no *Madrasas* in Delhi. In another Directory of *Madrasas* published by the Centre for Promotion of Science established in 1985 at AMU, a list of 2890 *Madrasas* has been given. In 1995, Union Minister for Human Resource Development mentioned the number as 12 thousand. However, it is certain that a large number of *Madrasas* have come up during last 50 years. There have been efforts to organize *Madrasas* for girls as well.

In certain parts of the country *Madrasa* Boards are created for affiliation. These boards have also received recognition from the state governments and got some grants sanctioned for meeting some heads of expenditure specially the salaries of teachers. West Bengal *Madrasa* Education Board is famous

in this direction and *Madrasa Aliya* still continues there right from the colonial days as a teaching and affiliating body. These *Madrasa* Education Boards have come up in Assam, Bihar, Orissa and U.P. Similarly in Maharashtra some *Madrasas* have got themselves recognized by the Maharashtra Board of Secondary Education and their students appear in the common SSC examinations of the Board.³¹ Apart from Boards there are some non-affiliating and non-examining supervisory voluntary organizations: For example in U.P., there is a *Dini Talimi* Council which has about 15000 *maktabs* attached to it. There is the *Madrasa* Islamic Council for Bihar, Orissa and West Bengal. Jamat-e-Islami also supervises a good number of schools. The NCERT has also launched a programme of teachers training for these schools in 1996.

There are, broadly speaking, three streams modeled on the pattern of Deoband, Nadwa and Jamiatul Hidayah. It is felt that the *Madrasas* should educate their students in natural sciences and in useful vocations for better career prospects. In 1986, Jamiatul Hidayah was established in Jaipur to safeguard Islamic values and tradition alongwith teaching modern sciences and industrial and technical trades for their all round development. Hence, there are efforts in all streams to improve the syllabus, include modern subjects and care for the career of students. The Foundation of Education Development has been working for preparing new textbook. These developments have contributed to bring *Ulama* to realize the needs of modern times and to open up for coming closer to modern intelligentsia.

Suggested Remedial Parameters

The track record of developmental pace in India has been satisfactory particularly in the areas of technical and vocational education and economic progress. Here is a big human resource pool along with considerable purchasing

power potential. Nearly 300 million people constitute its economic elite. In the given space of constitutional rights and liberal democratic political system with added advantages of globalization and privatization there is ample scope for Indian Muslims to embark upon a carefully designed plan of development and progress. The above mentioned paradox of their increasing participation and constantly downward curve in areas of development can be resolved only through remedial action plan, prepared and executed by the Indian Muslims as a community.

The starting point of this action plan is to comprehend the nature, dynamics and parameters of national development in all sectors and to create infrastructure and linkages with different agents of development. It is not an easy task. It can be done by experts in the concerned areas. This effort cannot be taken up at individual level. There has to be a committed effort to set up NGOs for preparing blueprints in different spheres. Establishment of concerns and NGOs for providing information and guidance in areas of right type of education and economic development should be taken up on priority basis. It is a point of satisfaction that there are some measures visible in this direction.³² These NGOs must develop their own information resources and permanent think tanks to continue with their work. There may be networking of these NGOs so that duplication may be avoided and proper feedback channels may be made effective.

One of encouraging developments is the emergence of professional elite from local to international level. These levels have to be inter-linked in a meaningful fashion. The flow of information and resources may give quick results. For example, Indian potential in the areas of availability of human resources and investment can easily be harnessed. These efforts would act as providing avenues to potential

competitors in different fields. There may be specialized agencies to prepare short term and long term projects in different spheres. Along with, there should be a chain of modern financial institutions to guide and help Muslim artisans and workmen to be engaged in up-coming industries and trade.

There has to be identification and constant articulation of emerging Muslim elite in India, which must forge meaningful ties with lower strata of society. They should develop confidence in themselves. And, confidence-building measures should be initiated at all levels. There are three important universities: Aligarh Muslim University, Jamia Millia Islamia and Jamia Hamdard. Opportunities provided by these institutions must be utilized to maximum extent. Indian Muslims must find out ways to regulate the running of these universities and provide meaningful help in their development. There should be a chain of counseling and career guidance centres. The available talent must be properly developed into skills.

India as a nation commits to the ideals of democracy and secularism. Liberal traditions of Indian culture suiting to pluralism in India are backed up by Indian culture and philosophy. But, over a few decades the integrationists have launched political movement based on 'one nation, one culture' philosophy. The socio-economic cleavages among people and cultures are being politicized and the nation is facing new kinds of challenges. Secularism and democracy need to be protected. These concepts are actually conditions for survival of Muslims and other minorities in India. Muslims should come forward and launch democratic struggle to save democracy in India. Another important area is to provide justice to scores of marginalized non-Muslim sections of Indian society. The Dalits, backward, scheduled castes etc. constitute the majority and most of them have

started looking to Muslims to come closer to them and evolve common strategy to fight for justice.

Indian Muslims have an all India network of traditional Islamic institutions like *Maktabas*, *Madrasas*, *Masajid* and *Anqaf* centres. All of them reach to the remotest of the country. These are in bad shape and vested interests do not allow much to be done in these areas. But, *Madrasas* are showing signs of hope. These institutions may be studied and revived to act as important centres for community work. These institutions should be modernized and monitored.

Lastly but most importantly the Indian Muslims must devote themselves to understand Islam in modern context and use it as guiding force with a world view based on *Quran* and *Sunnab*. To sum up, Indian Muslims will have to take up their case themselves and by the Grace of Allah, everything will fall in proper line.

Allah will not change the condition of a people unless and until they change themselves.

(Al-Quran 13:12)

Let there be of you an '*Ummah*' which calls for good, enjoins good deeds and prohibits deeds of evil. Those are truly felicitous.

(Al-Quran 3:104)

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Possible Means for the Development of *Awqaf* in India

Syed Khalid Rashid

Introductory Remarks and Scope

There are around 300,000 *awqāf* in India. About 70% of these consist of mosques, graveyards, *dargahs*, *takiās*, *imambaras*, etc. which do not possess much potentiality for income generation. A majority of the remaining 30% have to fulfill their specific objectives. Yet there are still 2% to 5% of the remaining *awqāf* in India which have either general charitable objects or whose objects have ceased to exist, or have become impossible to achieve. Such *awqāf*, if developed, may generate substantial regular income which may legally be used for the general betterment of the community.

Due to post-partition mass migration of Muslims from the border states to Pakistan, a majority of such *awqāf* are situated in Punjab, Haryana and Himachal Pradesh. In small numbers these are also found scattered throughout India. Once developed, these may yield enough income for the needy Muslims throughout India. *Awqāf* for development must be selected from all over the country to benefit Muslims in every state. But even if a larger number of *waqf* properties are selected from a few particular states, this should pose no problem, as their income could be distributed wherever needed.

In this paper, “development of *waqf*” means every kind of building activity undertaken to expand and enlarge, improvise, or rebuild an existing *waqf* property, within the permissible limits of the *sharīah*, so as to generate additional income for the socio-economic and educational betterment of community.

It is extremely necessary that the financial instruments selected to finance the development of *awqāf* must be in strict conformity with the *sharīah*, that is, there is no element of *ribā* (interest) or *gharar al fāhish* (excessive uncertainty), and contravention of any other Islamic prohibition.

Finding funds for the development of *awqāf* in India has always remained a problem. Initial efforts to obtain bank loans or financing from the Life Insurance Corporation of India produced no results.¹ The Central Government started giving annual grants-in-aid of small amounts for the development of urban *waqf* properties. But due to the small size of the grants, these could produce only very modest results. Thus, the search for possible source(s) of substantial funding for the development of *awqāf* is continuing for the last 25 years (since about 1975). Initially, those searching for funds were ready even to pay interest (*riba*) as no Islamic alternative was available then, but now there is a growing realization that any loan taken for the purpose must be free from interest, and any financial instrument used for funding the project must be in conformity with *shariah*. Moreover, Islamic alternatives are now available, although not too readily, and may be not within the country.

This paper tries to search for one or more of such Islamic financial instrument(s) which may be used for funding the development of *awqāf*. Simple loans raised on the basis of interest payments, are outside the scope of this search.

This paper briefly examines the following five points, giving more emphasis on the last two:

1. Efforts made in the past to develop *waqf* properties in India:
2. Provisions in the *Waqf* Act, 1995 which either directly relate to the development of *awqāf*;

3. Progress made by the scheme of development of *waqf* properties operated by the Central *Waqf* Council.
4. Islamic financial instruments which may possibly be used to finance the development of *awqaf* in India and;
5. Financial institutions that may finance the development of *awqaf* in India.

1. Efforts Made in the Past to Develop Urban *Waqf* Properties in India.

The *Waqf* Act, 1954, came into effect on 21st May, 1954. But, according to section 1 (3) of the Act, it was to come into force in a State on such date as the Central Government might appoint in this behalf for that State, and different dates were appointed for different States, starting from 15th January, 1955. The States of Bihar, Uttar Pradesh and West Bengal and the Union Territory of Delhi were exempted from the operation of the Act, as each of these already had its own *Waqf* Act. The implementation of the Act could actually be completed in 1968.² Another two to three years were spent in the formation of the *Waqf* Boards in the majority of the States and Union Territories. In Rajasthan, the *Waqf* Board was constituted on 1st October, 1962, that is, seven years after the extension of the *Waqf* Act, 1954 to Rajasthan on 1st April 1955. The situation was not much different in some other States.

Therefore, the first ten years or so after the enactment of the *Waqf* Act, 1954 were consumed in the formation of Boards. Serious issues, like development of *awqaf*, could not be given much attention during this period. The idea of developing urban *waqf* properties was first mooted in 1973 by Mr. Hasanuddin Ahmad I.A.S., the then Officer on Special Duty (*waqf*) in the government of India and it was adopted by the Central *Waqf* Council as its own scheme for implementation.³ All the State Governments were requested to establish *Waqf*

Development Corporation, and to sanction grant-in-aid to such Corporation. However, except Karnataka and Uttar Pradesh,⁴ no other State established such a Corporation. Even in Karnataka and U.P. the Corporations could not achieve much in development *amqaf* because of very limited finances at their disposal. As these Corporations are government companies with minimal participation of Muslim public, hence these do not enjoy the popular approval and support of the Muslims. Thus, the two Corporations exist in name alone and have failed to achieve any significant success.

Being government companies, their corporations have all of their Directors and Managing Directors appointed by the State governments, as provided in their article of association. To be a Muslim is not a pre-requisite for being appointed as a Director or Managing Director. In U.P., about half of the directors are non-Muslims, and a government servant is given the extra-responsibility to serve as Managing Director. Funds in the hands of the corporation come from the sale of rupee one shares to whomsoever the company offers them. Presently, nearly all the shares are owned by the State Governments. As secular entities, these corporations do not follow the norms of *shariah* and operate on the basis of interest (*riba*). It appears these corporations were established without making any in-depth study of the issues involved, implications inherent in such a move, and above all, without consulting the *ulema*. It is unfortunate that sometimes in situations like this, Muslim civil servants equate themselves with the *ulema* and take decisions of the very doubtful validity in the name of so called Muslim public interest.

2. Development of Urban *Waqf* Properties Through the Central *Waqf* Council

The scheme for the development of urban *waqf* properties is being operated since 1974 by the Central *Waqf* Council

(CWC) with the help of annual grants-in-aid from the Central Government. The amounts so received are given out as loans to the State Wakf Boards or individual *waqf* institutions for such developmental work as construction of commercial complexes like shopping centres, marriage halls, hostels, housing complexes, etc. in order to generate fresh income. During the last 25 years (between 1974 and 1999) a total of 98 projects have been completed. The repaid amounts of loan are put in a "Revolving Fund", out of which fresh loans are given for 'minor' projects costing upto Rs. 10 lakhs. Loans amounting to Rs. 318 lakhs have been given upto 1999 out of this fund to finance 72 minor projects, out of which 47 have been completed.⁵ Details of these projects may be seen in appendix I and Appendix 2 to this paper.

There are 297, 970 *awqaf* in India, registered with the various Wakf Boards, and as the survey of *awqaf* is still not complete in many States, it may safely be assumed that in the final count their total number will be in excess of 320,000. The figure for their total number in each State may be seen in Appendix 3.

Compared with their total number, the development of less than 200 *awqaf* over a period of 25 years is far from being satisfactory. However, according to a recent statement of the Secretary, Central Wakf Council, "the problem is not paucity of funds but lack of zeal on the part of the *waqf* institutions to undertake such projects. No project has been denied loan so far for want of funds".⁶ However, part of the problem may be the lack of publicity of the scheme and failure to provide technical expertise which should be made available by the Central Wakf Council or the Board to a *waqf* institution that is contemplating development of *waqf* property. Undertaking feasibility study to find out the viability of the project, cost estimation, calculation of profit and investment ratio, etc. are all technical in nature which an

average *mutawalli* may not be able to undertake. Hence the problem of “lack of zeal” need to be seen in a more broader and proper context.

3. Provisions in the *Waqf* Act, 1996 Relating to the Development of *Awqaf*

The *Waqf* Act, 1954, repealed in 1996, contained no provision concerning the development of *waqf* properties. Section 32 of the *Waqf* Act, 1995, however, *inter alia*, regards it as a function of the Board to undertake development of *awqaf*. Sub-sections (4) to (6) of section 32 provide as follows:

“(4) Where the Board is satisfied that nay wakf land, which is a wakf property, offers a feasible potential for development as a shopping centre, market, housing flats and the like it may serve upon the *mutawalli* of the concerned wakf a notice requiring him within such time, but not less than sixty days, as may be specified in the notice, to convey its decision whether he is willing to execute the development works specified in the notice.

(5) On consideration of the reply, if any, received to the notice issued under subsection (4) the board, if it is satisfied that the *mutawalli* is not willing or is not capable of executing the works required to be executed in terms of the notice, it may, with the prior approval of the Government take over the property, clear it of any building or structure thereon, which, in the opinion of the Board is necessary for execution of the works and execute such works from wakf funds or from the finances which may be raised on the security of the properties of the wakf concerned and control and manage the properties till such time as all expenses incurred by the Board under this section together with interest thereon the expenditure on maintenance of such works and other

legitimate changes incurred on the property are recovered from the income derived from the property:

provided that the Board shall compensate annually the *mutavalli* of the concerned wakf to the extent of the average annual net income derived from the property during the three years immediately preceding the taking over of the property by the Board.

(6) After all the expenses as enumerated in sub-section (5) have been recouped from the income of the developed properties, the developed properties shall be handed over to *mutawalli* of the concerned wakf.”

As is clear from sub-section (5), the repayment of the loan raised by the *waqf* institution is allowed to be made with ‘interest’. But as interest is *haram* in Islam, the permission for its payment should not have been provided in the *Waqf* Act. The loan has to be raised in conformity with the *shariah* principles.

A reading of section 32 of the *Waqf* Act, 1995 shows that “any *waqf* land” may be developed. But initially the emphasis ought to be on developing *awqaf* with general charitable objects, so that the whole community may derive benefit from their development. Development of such *awqaf* which have specific objects to fulfill should be left with the administrators of these *awqaf*. If the development of *waqf* is to generate additional income to be spent on the welfare of the community, it appears strange when section 32 (6) directs that “developed properties shall be handed over to *mutawalli* of the concerned *wakf*”, without providing anything about the utilization of the income so generated. Probably, this is what to expect when “any *waqf* land” is picked for development.

Section 39 of the Act contains a useful provision regarding *awqaf* whose objects, or any part thereof, have ceased to exist. In such cases, the Wakf Board is empowered to utilize the income of such *awqaf* on: -

- renovation of any *waqf* property, and if there is no need for such a renovation, then it may be appropriated on
- objects similar to or nearly similar to the original, or
- for the benefit of the poor, or
- for the purpose of promotion of knowledge and learning in the Muslim community.

The above types of *awqaf* are suitable for development, and their enhanced income may be spent in accordance with the above guidance with the above guidelines contained in section 32 (2)(e)(iii) of the Act.

The permission given in section 51 of the Act for mortgaging a *waqf* property with prior approval of the Board (provided the property in question is not a mosque, *dargah*, or *kebanqah*) may appear to be useful for raising funds for the development of *waqf* properties. However, legal hurdles in the way of sale of mortgaged *waqf* properties necessitated by the default in the repayment of mortgaged debt, are so well known that nobody may like to advance such a loan. Thus, large amounts of money needed for development of *awqaf* could not possibly be raised by mortgaging *waqf* property. Moreover, legal grounds on which a *waqf* property may be mortgaged, do not generally include funding of developmental activities.

Thus, provision of the *Waqf* Act, 1995 are neither appropriate nor sufficient for purposes of development of *awqaf*. We have to look elsewhere for this purpose.

4. Islamic Financial Instruments Relevant for the Funding of *Waqf* Development in India

Out of the many Islamic financial instruments which are available, the suitability or otherwise of the following is discussed vis-à-vis the funding of the development of *waqf* properties in India:

- 4.1 *Mursad* loan
- 4.2 *Hukr*
- 4.3 *Istisna'*
- 4.4 *Mudarabah*
- 4.5 *Musharakah*
- 4.6 Diminishing *Musharakah*

4.1 *Mursad* Loan

This type of loan envisages a contract between a *mutawalli* and a lender to raise loan for the repair or re-construction of a *waqf* property which is under his supervision and which has fallen into disrepair and ruin, and the *waqf* income is not enough for the purpose. It is necessary for the *mutawalli* to obtain prior permission of the *qadi* before contracting to raise this loan. The developed or reconstructed *waqf* property is offered to the lender on long lease extending over a period sufficient for the reimbursement of the amount taken as loan plus some profit. Such a practice is justified on the ground that only a long-term tenant may be interested in undertaking to finance reconstruction work involving substantial investment. After the expiry of the tenancy, the developed *waqf* property reverts back to its *mutawalli*. This type of loan was well known in the 18th and 19th century Ottoman Damascus, and also elsewhere. Two other modes for the repayment of *mursad* loan were also available⁷:

- 4.1.1 The lender kept on receiving certain percentage of the income of the developed *waqf* until the loan was fully paid.
- 4.1.2 The lender as tenant was entitled, as such, to give a portion of the *waqf* property to a sub-tenant, and to adjust the amount of rent against the loan.

Mursad was regarded as property and as such formed part of the *tarkab* (inheritance) of the lender. The lender could, by giving notice to the *mutawalli* concerned, sell his right to receive back the amount loaned. This was called *bawalat al-mursad*, where the purchaser stepped into the shoes of the lender, thereby acquiring the same rights and duties as the lender. Such sales were quite common in Syria.⁸

The lender, who is also the tenant, could build, with the permission of the *mutawalli*, any structure on the property he held as tenant, for the beneficial enjoyment of this property, provided it does not damage the *waqf* property. If it does damage, then it is to be dismantled at the lender's expense. On the expiry of the tenancy period, the *mutawalli* has the option to purchase back the structure, which otherwise will continue in the ownership of the lender.⁹

The fact that *mursad* is mentioned with reference to a large number of *awqaf* in the 19th and 19th century Damascus shows that it was widely used during those times. In India, where paucity of funds is a problem facing large-scale development of *waqf* properties, the technique of *mursad* loan may serve well, if used under the supervision of the Board. Section 56 of the *Waqf* Act, 1995 which is based on a recommendation of the *Waqf* Inquiry Committee appointed by the Government of India,¹⁰ allows lease of *waqf* property beyond three years with "previous sanction of the Board". While granting this sanction, the Board has to 'review the terms and

conditions on which the lease or sub-lease is proposed to be granted or renewed and (to make) its approval subject to the revision of such terms and conditions in such manner as it may direct” [Section 56(1), (2) and (3)].

There seems to be no apparent harm in allowing lease of *waqf* property up to a maximum of 20 years in genuine cases certified by the Board. This permission may be implemented in the same manner as done in a *mursad* loan. Certain percentage of the lease rent may be allowed to be paid to the *mutawalli* to meet the objects of *waqf*. After the expiry of the lease period, the developed *waqf*'s full income shall be used for general charitable objects, if it has similar objects. No lease beyond 20 years should be allowed because, probably, a property once used for more than 20 years may not have much left in it.

Long lease of *waqf* property is allowed under Islamic law on the ground of *zarura* (necessity) and *waqf*'s best interest, provided the *qadi* (court or tribunal) allows it for the “benefit of estate”, as Justice Abdur Rahman puts it.¹¹ So, even though long lease may not be the best option, yet it may be considered in appropriate exceptional case of such a *waqf*, which has the potentiality of very high return if developed.

4.2 *Hukr* (Long lease of *waqf* property)

This is similar to *mursad* loan with slight variation. In *Hukr* (or *hiker*), long lease of *waqf* property is granted to someone who is ready to pay rent in advance, which is used for the repair and improvement of the property, and another small amount of rent payable annually. The lease thereby acquires generally a perpetual right of enjoyment of the property. This right was treated as assignable and heritable by an Ottoman statute, which for all practicable purposes, regarded the lessee as the owner of the property. If the lessee should

die without an heir, the property reverted back to the *mutawalli* of the *waqf* concerned.¹² *Huker* was allowed first by the Ottomans. After the Ottomans, it continued to be practiced in counties which were once part of the Ottoman Empires like Egypt, Iraq, Syria, etc.

The Egyptian Civil Code, 1949 curtailed the maximum period for which *buker* lease could be given to 60 years (article 999). The subsequent Code of 1952 abolished the *buker* of family *awqaf* when it abolished family *awqaf*. The right of terminating *buker* of charitable *awqaf* was given by the Egyptian Law No. 649 of 1953 to the Ministry of *Awqaf* acting in concurrence with the High *Waqf* Council, provided such termination was considered to be in the interest of the *waqf* concerned. *Hukers* of charitable *awqaf* was ultimately abolished by the Law No. 92 of 1960. It was to be abolished within 5 years from the date the law came into force.¹³ The developments in Egypt naturally affected the status of *buker* in other neighbouring countries. In Syria, a prohibition was imposed on the creation of *buker*. In Iraq, *buker* of charitable *awqaf* were abolished by the Law No. 138 of 1960. In Jordan, the Civil Code restricted the maximum period for which *buker* could be created to 50 years. The Libyan Civil Code refused to recognize *buker*.¹⁴

The main reason behind the abolition of *buker* and imposition of restrictions on the maximum period for which *buker* could be granted was that it became a technique for converting *awqaf* into private properties. For the same reason, *buker* should be ignored in India.

4.3 *Istisna'* Financing

Suppose there is a *waqf* property possessing tremendous potential for development. Its *mutawalli* may call for bids from estate developers to build, say, an office block or a

commercial complex, and to sell it to the same for a specified amount to be paid in installments over a fixed period of time. The estate developer is to be paid out of the rental income of the constructed building. This is a typical example of an *istisna'* contract to get a building constructed on the basis of deferred payment of its cost. In this type of construction activity, a very careful advance study is to be made of the income generation potential of the project. In order to be viable, the expected rental income must be more than the deferred price installments, by the safe margin, to allow for possible downward swing in rents.

One variation in the above mode could be as follows: The *waqf* may give part of the land it owns as down payment or even full payment to the contractor undertaking the construction. Legally speaking, it amounts to exchange of a piece of land for a building. “*Fuqaha* permit in principle such an exchange, subject to the approval of a *shariah* court. What they emphatically disapprove of is an exchange of real *waqf* property for a movable asset, which is more prone to misappropriation or embezzlement.”¹⁵

The uniqueness of *istisna'* lies in the fact that it is a contract in which it is permissible to defer the payment of price as well as the handing over of the thing sold. It is so because the thing sold has yet to come into existence, hence its handing over has to be necessarily deferred. As the buyer needs financing from the seller, therefore, the payment of price needs also to be deferred. Both of these deferments within the same contract are allowed only by the Hanafis, but not by the Malikis, Shafi's and Hanbalis.¹⁶ The suitability of *istisna* becomes more apparent if we place it against the permission given in *fiqh* to a contractor to delegate part or full amount of work to a sub-contractor. On this analogy, a financial institution may undertake to accomplish a construction company, making payments to it. This mode is particularly

useful where the *waqf* institution may not be having any technical expertise. In *istisna*, the responsibility for quality remains with the financial institution. This mode may be adopted in India if a financier is available to work on these lines.

4.4 *Mudarabah* (Profit and Loss Sharing)

It is a well-known concept in which an investor (called *rabb al-mal*) supplies to the agent (called *mudarib*) with capital for undertaking a venture. Thus, the investor provides funds, while the agent supplies his effort and skill. The *mudarib* contracts to pay to the *rabb al-mal* (investor) the capital invested and also an agreed percentage of the profit. In case of loss, unless caused by negligence of *mudarib* or violation of the terms of contract, it is borne solely by the investor (*rabb al-mal*) while the agent (*mudarib*) will lose only his time and effort.¹⁷

In its nature *mudarabah* contract binds the parties so long the contract remains in place. Its main thrust remains on profit sharing. Both of these two elements make it unsuitable for purposes of financing the development of *awqaf*. The *waqf* needs fund not a partnership on a permanent basis; it is also not in its interest to go on sharing the profit on a permanent basis. The investor may also not wish to bear the full burden of loss, as is essentially required in this type of contract.

4.5 *Musharakah* (Partnership)

In this, the fund provider (generally a bank or finance company) advances funds to a party which mixes it with its own capital to form a partnership in equity. Profit and loss are shared by the two parties strictly in proportion to respective amounts of capital contribution.

Musharakah gives an opportunity to the fund provider to have a role in the management of funds. *Musharakah* can be employed for long as well as short periods; it serves those who have some capital, in cash or kind, but it is not enough to be used for any meaningful enterprise. Availability of capital on *musharakah* basis is same as providing funds to a skilled labour without capital¹⁸ in *mudarabah*.

For similar reasons as mentioned in case of *mudarabah*, the *musharakah* mode of financing is not suitable for the development of *waqf* properties.

4.6 Diminishing *Musharakah*

In *mudarabah* contract, the *rabb al-mal* (owner of funds) remains the owner till the contract comes to an end. In *musharakah* also, the ownership ratio of the two parties is fixed and remains as such for the whole duration of the contract. Financing an on-going enterprise with such types of contract may not be in the best interest of the party seeking the funds.¹⁹

With regard to *waqf* development, although the *waqf* institution requires funds, yet it likes the contractual relationship of *musharakah* to gradually terminate within a reasonable time, and in such a way that the portion of ownership in the *waqf* property vesting in the investor slowly gets transferred to the *waqf*.

Diminishing *musharakah* is a new financing technique that has been evolved and implemented with the help of the Islamic Development Bank. Underlying this concept is the principle of *musharakah yantabi bi al tamlik* (*musharakah* which ends in transferring ownership to one party, the entrepreneur).

In diminishing *musharakah*, an Islamic bank or finance provider and an entrepreneur enter into a contract in which bank or finance provider provides fund to develop a *waqf* property and to receive in return certain percentage of the net income of the project as payment of the principal amount plus some profit. In this manner, bank's share of the equity is progressively reduced and the partner (entrepreneur) eventually becomes full owner of the *waqf*.²⁰ The finance provider also bears loss, if any. This is why project's viability and income generation capability have to be studied in advance very carefully.

“This method of diminishing (*musharakah*) partnership has been successfully applied by the Jordan Islamic Bank mainly to finance real estate projects and the construction of commercial buildings and housing projects. The projects are financed by the bank, fully or partially, on the basis that the bank obtains a proportion of the net profits as a partner and receives another payment toward the final payment of the principal advanced. When the original amount is fully repaid, the ownership is fully transferred to the partner and the bank has no claim whatsoever. The Jordan Islamic Bank has financed the construction of a commercial market in Irbid, a community college in Jerash, and a hospital in Zerqa, using this method of financing.”²¹

The concept of diminishing *musharakah* was discussed at and approved by the First International Conference on Islamic Banking held in Dubai in 1979.²²

“When the issue of designing appropriate modes for financing *awqaf* properties was considered in the Islamic Development Bank, a task force appointed for this purpose recommended the diminishing *musharakah* as a sole appropriate mode. The consideration was based on the peculiar legal position of ownership of the *waqf* properties, i.e.

a financier cannot keep permanent ownership in a *waqf* property...”²³

Islamic Development Bank Task Force recommenced that the *waqf* as a legal entity can enter into a contract with an Islamic bank or finance provider to finance the development of *waqf* property on a profit-sharing joint enterprise basis. Thus, after a brief time the ownership of *waqf* property vesting in the bank gets completely transferred to the *waqf* itself.

The concept becomes clearer if we look at the diminishing *musbarakah* model operated by the Sudanese Islamic Bank (SIB). “In contracts stipulating diminishing partnership, the partner client will undertake to allocate a proportion of his annual profits for the purchase of a certain pre-agreed percentage (say 20%), then at the end of the fifth year, the whole share of the SIB would have been taken over by the partner-client. In view of the changes in the relative proportion of contribution of each of the two partners, the contract would provide a formula for a corresponding adjustment of shares in profits according to the increase or decrease of each of the two partners”.²⁴

Mahmoud A. Mahdi, a member of staff of IRTI, Islamic Development Bank, Jeddah says:

“In most of the IDB operations in the *awqaf* sector, diminishing *musbarakah* was found to be highly efficient... it operates in the following manner. The bank participates as a financing partner, in full or in part, in a project with a given income forecast. An agreement is signed by the partner and the bank, which entitles the bank to receive as a partner a share of the profit. The agreement

also provides payment of a portion of the net income of the project in repayment of the principal amount given by the bank. In this way the bank's share of the equity is progressively reduced and the partner eventually becomes the full owner of the project".²⁵

A similar financing instrument is used in Jordan under the name of "Decreasing partnership" to finance the development of *awqaf*, as stated by the Ministry of *Awqaf* and Islamic Affairs, Jordan.²⁶

The concept of diminishing *musharakah* appears to be best suited for the development of *awqaf* everywhere including India. It provides a sound financial instrument which is practical as well as in conformity with the *shariah*.

5. Financial Institutions that may Finance the Development of *Awqaf* in India

Only such financial institutions which do not operate on the basis of *riba* and whose business practices do not contravene any other principle of *shariah*, should finance the development of *awqaf* in India. Obviously, such institutions could be either Islamic banks or finance companies operating on Islamic principles. As there is no Islamic bank in India, so only some foreign Islamic bank like Islamic Development Bank, Jeddah or Bank Islam, Malaysia may possibly participate in the development of *awqaf* on the basis of diminishing *musharakah*. It may be quite profitable for it to do so. It is reported by an official of the Islamic Development Bank that development of *waqf* properties in an Arab Gulf country during 1992 – 1996 increased their net revenue by 69%, net fixed assets by 120%, and capital assets by 79%.²⁷ In India, the potentiality is even better.

Islamic Development Bank (IDB) is established for the economic and social progress of its member countries as well as of “Muslim communities” elsewhere. As such, it may very well participate in the development of *awqaf* in India, even though India is not one of its member countries. Bank Islam, Malaysia, operates on purely commercial lines but within the limits of *shariah*. Development of *awqaf* surely comes within the scope of its operations, and offers good opportunity for profit and social welfare.

In recent years, Indian Muslims have established quite a few Islamic finance companies which operate on purely Islamic principles of finance and investment. Development of *awqaf* offers them a very good and sound investment opportunity with good prospects of profit-making.

The desirability of having a representative body which may speak on behalf of *awqaf* in India cannot be gainsaid. The Central *Waqf* Council may be such a body. Though development of *awqaf* does not strictly come within its statutory function, which is to “advise the Central Government” on matters concerning the working of Board and “the due administration of wakfs” (*awqaf*) [Section 9 of 1995 Act], unless the words “due administration of wakfs” are interpreted very liberally. Yet in years past, somehow, the council has acquired a representative status in matters of *waqf*. The Council may be entrusted with the duty of over-all supervision of an All-India Effort for the Development of *Awqaf*, and to negotiate for this purpose terms and conditions for taking loans or entering into business partnerships with foreign and local banks and finance companies.

The issue of obtaining loans or funds from foreign banks and finance companies may require permission from the Central Government. The involvement of CWC may be useful, as it is a statutory body established by the Central Government

itself. The CWC will surely be in a better position to convince the Government of the necessity to raise funds for this important task. Permission may be sought to remit in foreign exchange the exact amount of money received in foreign exchange as loan or investment, thereby incurring no loss of foreign exchange to the country. The foreign lenders or investors may be convinced to utilize the profit earned by them to be utilized within the country. For IDB it should pose no problem, as it may utilize this amount on the educational scholarship scheme sponsored by it. The amount may also or alternatively be used to meet cost of printing of books, expenses of seminars, conferences, joint research projects, training of employees, etc. In this way, the country would stand to gain and will not incur any loss of foreign exchange.

Conclusion

The relatively small scale on which development of *waqf* properties has been undertaken in India during the last 25 years has failed to benefit the community in any significant manner. What appears necessary is to launch a big project involving the development of at least 200 *amqaf* in India in the first 5 years phase at a cost of about Rs. 300 crores (or US\$50 million) which may generate a total annual income of about Rs. 50 crores, may even be higher than 17% of the total invested. In fact, the rate of return may even be higher than 17%. The Central *Waqf* Council may start a survey of suitable *waqf* properties that may be developed on a reasonably large scale. The high cost of construction now-a-days requires large amount of money. For instance, even one such project like Chisti Chaman Project involving construction of a multi-storied hotel-cum-guest house on the *waqf* land belonging to the *dargah* in front of the Railway Station, Ajmer could cost Rs. 5 crores or more. When the

development of 200 such properties is planned, the costing at Rs. 300 crores, should be treated as moderate and realistic.

The Central *Waqf* Council should be entrusted with the responsibility of this project. The available models of *Waqf* Development Corporation in U.P. and A.P. leave much to be desired. The CWC would need to have some specified staff to plan, survey, supervise and execute various developmental projects in collaboration with *Waqf* Boards and *mutawallis* of concerned *awqaf*. It may also have to negotiate the terms and conditions of loans with various Islamic banks and finance companies. The most suitable financial instrument for India appears to be diminishing *musharakah*, followed by *mursad* loan and *istisna*, in this order.

The Central Government, which is sponsoring the development of urban *waqf* properties since the last 25 years through annual grants-in-aid of modest sums of money, should appreciate that the work is very big and need to be undertaken at a much more bigger scale. Financing of such a mega project cannot obviously be through grants-in-aid. It is in its nature a commercial project and hence should be treated as such. If funds for this may not be available locally, permission should be granted for involving foreign Islamic banks in financing this project. The legally essential requirement of avoiding payment of interest (*riba*) made the choice of funding sources very limited and probably restricted to Islamic banks. In view of the element of public interest involved in the issue, and with no risk of losing any foreign exchange, the Government may very well grant the needed permission. The fact that the generated income from the developed *awqaf* would wholly be spent on the socio-economic and educational betterment of the community should further prompt the government to grant the permission. The CWC may also try to obtain the funds locally from the companies operating on Islamic principles.

Appendix I
***Awqaf* which took Loan from Central *Waqf* Council for
 Developmental Project***

Name of <i>Waqf</i>		Loan given (Rs. Lakhs)	Annual Income Before developmen t (Rs.)	Annual Income after developm ent (Rs.)
Andhra Pradesh				
1	Serai Mosque <i>Waqf</i> , Vijayawada	37,50,000	25,000	8,50,000
2	Baitul Madina <i>Waqf</i> , Hyderabad	21,50,000	5,680	3,10,000
Bihar				
3	Dargah Hazrat Peer-e-Nazar, Chhapra	2,00,000	Nil	50,000
4	Badshah Nawab <i>Waqf</i> , Patna	2,44,000	5,800	60,000
5	Peepalpanti Kachahary Mosque, Buxer	5,59,000	Nil	86,000
6	Mir Hasan Askari	4,15,000	Nil	91,000
7	Shaikh Nisar Hussain <i>Waqf</i> Estate, Muzaffarpur	9,64,000	Nil	1,72,000

* Source: Mohd. Rizwanul Haque (1999), *infra*, n.5

Karnataka				
8	Anjuman-e-Islam, Hubli	19,45,000	Nil	1,20,000
9	Madina Building, Gulbarga	12,55,000	835	2,00,000
10	Hazrat Madar Shah (I) Makan, Tumkur	21,00,000	Nil	2,40,000
11	Haji Sir Ismail Sait Mosque, Bangalore	9,22,000	3,00,000	6,12,000
12	Hazrat Madar Shah (II) Makan, Bangalore	45,00,000	2,40,000	10,26,000
13	Karnataka Board of Waqf, Bangalore	59,70,000	Nil	30,00,000
14	Jama Masjid Islampur, Gangwati, Raichur	19,50,000	1,20,000	4,95,000
15	Anjuman-e-Islam, Kolegal	67,50,000	95,000	16,38,000
16	Anjuman-e-Ansarussafia Gulbarga	25,30,000	60,000	2,98,000
17	Betgeri Idgah Committee, adag	9,30,000	Nil	1,90,000

18	Beruni Abadi Mosque, Gangavati Riachur	23,70,000	80,000	4,30,000
19	Jama Masjid Qabrustan Maddur, Mandya	23,00,000	50,000	3,84,000
20	Mama Masjid Husagi Shorapur, Gulbarga	30,000	Nil	5,000
21	Dargah Hazrat Hameed Shah, Bangalore	75,00,000	85,000	21,000
22	Majlis-e-Riufah Muslimeen, Mysore	25,00,000	Nil	5,00,000
23	Bellaary Distt Muslim Shadi Mahal, Bellary	31,50,000	Nil	7,40,000
24	Syed Madani Charitable Trust, Ullai	60,00,000	1,25,000	2,16,00,000
25	Millah Educational Welware Society, Devangeri, Chatradurga	33,00,000	Nil	5,24,000

26	Anjumane Falah-e-Darain, Annigeri	11,70,000	40,000	1,88,000
27	Mualim Hostel, K.R. Puram	14,15,000	Nil	1,84,000
Kerala				
28	Hashmiya Madarsa <i>Waqf</i> , Allappay	2,00,000	Nil	2,682
29	Madarsa Darussalam Yateemkhana, Tellicherry	11,90,000	Nil	1,50,000
Maharashtra				
30	Shad Adam Shaikh Trust, Bhiwanday	30,00,000	Nil	3,50,000
31	Masjid Azamganj, Latur	11,00,000	9,691	2,40,000
Orissa				
32	Tatar Khan Mosque Cuttack	34,10,000	4,400	4,72,000
33	Capital Mosque Bhubneshwar	30,00,000	15,000	4,93,000
34	Paradeep Port Islamic Association, Cuttack	25,90,000	Nil	4,68,000
35	Masjid-e-Khurda Road Jatnipuri	12,20,000	36,000	2,43,000

36	Sayed Seminary, Cuttack	60,00,000	Nil	20,00,000
Punjab				
37	Masjid Uddan Wali Malerkotla	10,00,000	Nil	5,00,000
Rajasthan				
38	Dargah Bungalow Ajmer	10,00,000	Nil	1,60,000
39	Dargah Khwaja Saheb, Ajmer	14,02,000	Nil	10,00,000
Tamil Nadu				
40	S.A. Haji Syed Cassim Trust, Palayamcotta h	5,90,000	Nil	80,000
41	Madrah Majalia <i>Waqf</i> , Madras	5,20,000	Nil	90,000
42	Lottoar Elangadi Mosque, Nagercoil	9,25,000	Nil	57,000
43	Kazimar Peria Pallivasal, Madurai	24,75,000	55,000	3,00,000
44	Tirunelveli Junction Jama Masjid	11,50,000	1,50,000	1,17,000

45	Peria Pallivasal (2 nd Project) S'Kovil	6,00,000	Nil	50,000
46	Madrasa Manbaus Salah Arabic College, Titucorin	11,00,000	Nil	2,16,000
47	Thariqathul Islam Safia Jamaath, Coimbatore	7,50,000	53,000	2,40,000
48	Hzt. Shaikh Dawood Auliya Dargah Tanore	4,87,000	3,55,000	90,000
49	Mohammadia puram Muslim Mamath Dindigul	17,68,000	35,000	3,64,000
50	Tirippur Sunnath Majath Masjid, Tirippur	10,80,000	2,00,000	3,80,000
51	Perioa Pallivasal (II Project S'Kovil)	6,00,000	Nil	4,00,000

52	Madarsa-e-Ahmadiya Poor Mosque Tripathur, North Arcot (N.A)	37,50,000	Nil	5,51,000
53	Kottaipatti Chinnapallivasal Muslim Jamath Virudhunagar	10,10,000	15,000	2,76,000

Appendix 2

Awqaf which Availed of Loan From Revolving Fund (Minor Project)*

Name of the <i>Waqf</i>		Loan Given (Rs)	Income Before Development (Rs)	Income After Development (Rs)
Karnataka				
1	Sher Khan Masjid Belgaum	1,25,000	-	25,000
2	Mansoor Ali Memorial Kerur, Distt. Bijapur	2,84,000	-	75,000
3	Jama Masjid Ahle Sunnat Wal Jamat, Gangavati Raichur	3,00,000	-	50,000

* Source: Mohd. Rizwanul Haque (1999), *infra* n.5.

4	Muslim Orphanage Bangalore	5,00,000	Given to finish work	
5	Anjuman-e-Rehmania, Yadgir, Gulbarga	4,10,000	-	1,05,000
6	Mahadi Masjid, Ganeshpet, Hubli	6,50,000	-	-
7	Masjid-e-Rehmania, Yadgir Gulbarga	3,25,000	6,000	53,000
8	Hazrat Jalal Mohd. Dargah, Gokak, Belgaum	10,48,000	95,000	2,16,000
9	Noorani Masjid Sirwar Town, Raichur	1,80,000	-	68,000
10	Masjid-e-Quba Fort Malvelli, Mandiya	1,90,000	-	70,000
11	Jama Masjid Honaver	2,80,000	4,000	66,000
12	Shah Inayat Masjid Gauribidanur	3,94,000	50,000	95,000
13	Jama Masjid Madaripalliya Shimoga	7,25,000	7,000	1,23,000

14	Hazrat Lateefa Bano Dargah and Qabristan Goripet	4,12,000	-	90,000
15	Jama Masjid K.R. Nagar, Mysore	1,30,000	-	35,000
Kerala				
16	Valliapalli Jamath Hamidia Mosque Janakpuram, Qilon	7,50,000	-	1,75,000
17	Ramanthali Muslim Jamath Payyanur, Kannur Distt.	7,50,000	46,000	1,32,000
18	Miskalpalli Paripalana Calcutta	1,85,000	-	8,000
19	Muslim Association Thampanoor Masjid, Trivandram	10,00,000	-	2,40,000
20	Noorul Islam Madrasa Mifthaul Uloom Arabic School, Puthanpally	9,00,000	50,000	1,50,000

Madhya Pradesh				
21	Takiya Dargah Hazrath Shah Hussain Khudanama <i>Waqf</i> , Burhanpur	2,22,000	-	66,000
22	Mohammadi Majid and Qabrutan <i>Waqf</i> , Distt. Vidisha	1,00,000	-	40,000
23	Masjid Peer Ali Kattal Dhar	94,000	3,000	25,000
24	Anjuman-e-Int azamia Committee, Mansoori Masjid <i>Waqf</i> , Guna	78,000	8,000	30,000
25	Intazamia Committee Masjid Mominvadi, Dhar	3,72,000	18,000	70,000
26	Masjid Mulla Hayati Dawoodpura Burhanpur Khandwa	3,36,000	-	85,000
27	Majid Tanagujar Harrarpura Burhanpur Khandwa	6,10,000	19,000	1,00,000

28	<i>Waqf</i> Masjid Pinderwadi Dhar	3,85,000	-	80,000
29	Madarsa Riyazul Islam Vidisha	12,10,000	22,000	2,30,000
30	<i>Waqf</i> Masjid Hindustani Harrerpura Burhanpur, Khandwa	7,50,000	-	1,50,000
31	<i>Waqf</i> Masjid Khankah, Burhanpur, Handwa	4,00,000	-	2,00,000
32	<i>Waqf</i> Masjid Subhania Anjuman-e-Islamia, Bilaspur	2,62,000	15,000	1,70,000
Orissa				
33	Dargah Kadma Rasool Cuttack	5,00,000	-	1,00,000
34	Angul Mosque Committee, Distt. Dhenkanal	2,20,000	-	1,25,000
35	Muslim Youth Cultural Association Cuttack	4,20,000	-	1,00,000
36	Baba Bokhari Saheb, Taramadan Cuttack	7,30,000	-	1,31,000

37	Ujale Khan Mosque Mohammadi Bazar, Cuttack	7,17,000	5,000	1,00,000
Punjab				
38	Mosque Kachahary Wali Sonapat	3,75,000	-	96,000
39	Dargah Hazrat Rattan Bhatinda	3,84,000	-	70,000
Tamil Nadu				
40	Triplicane Labbai Jamath Mosque Madras	3,75,000	-	96,000
41	Kuruwithurai Pallivasal Kayalpatnam	2,60,000	-	60,000
42	<i>Waqf</i> Mohidden Andavar Pallivasal Mana Madurai	5,80,000	-	1,22,000
43	Mohideen Andavar Pallivasal Melur	4,23,000	20,000	81,000
44	Keelatheru Hairathul Jamia Muslim Sangam Ramnad Distt.	1,50,000	5,000	58,000

45	Ahale Sunnat Jamath, Sahiamangala m Periya Distt (I)	90,000	-	18,000
46	Ahale Jamath Anjuman Trust Periyar Distt. (II)	3,50,000	-	1,40,000
47	Mohideen Andavar Palivasal Devakpattal	4,80,000	-	1,00,000

Appendix 3

Number of Registered *Awqaf*

1	Andhra Pradesh	35,703
2	Assam	67
3	Bihar (Sunni)	23,000
4	Bihar (Shia)	221
5	Karnataka	22,267
6	Kerala	6,913
7	Gujrat	12,000
8	Madhya Pradesh	16,000
9	Manipur	166
10	Maharashtra	Not available
11	Meghalaya	38
12	Orissa	3,729
13	Punjab	35,750
14	Rajasthan	18,735
15	Tamil Nadu	6,149
16	Tripura	832
17	U.P. (Shia)	8,000

18	U.P. (Sunni)	119,031*
19	Delhi	1,977
20	Dadra & Nagar Haveli	10
21	Lakshadweep	Not available
22	Pondicherry	58
	Total	297,970

- Included in these figures are 2,015 *waqf ala-al-aulad*. The definition of *waqf* in the *Waqf Acts* of 1954 and 1995 excludes *waqf ala al-aulad*, hence conducted under these Acts does not include *waqf ala al-aulad* in the total number of *awqaf* in the State. As such, the total number of *awqaf* in India, both public and family, must not be less than 3,30,000[in U.P. the survey was conducted under the U.P Muslim *Waqf Acts* of 1936 and 1960]. Mohd. Rizwanul Haque, *infra* n.5.

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 - 1st February, 1995-Assam and Travancore-Cochin, 1st April, 1995-Andhra and Rajasthan, Notification No. S.R.O. 282, dated the 22nd January, 1995, Gazette of India, Extraordinary, Pt. II, Sec.3, p.199;

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Theory and Practice of Islamic Banking in the Light of Indian Banking Law

Ahsanul Haq

The conventional banks render many basic and essential services without which no modern economy can survive but their most important function is the financial intermediation between the lenders and the borrowers on the basis of interest. However, Islamic economists have suggested an alternative banking system without 'interest'. It is also claimed that such a system can be evolved on the basis of *Mudarabah* (management of funds for a share in profit) and *Musharakah* (partnership).^{1.1, 1.2, 1.3, 1.4}

Models of Islamic Banking

The Islamic Economists have also proposed a few models of Islamic Banking. In the words of *Khijar*: "The efforts of Muslim scholars and economists in developing models of banking within the framework of Islamic requirements have led to a variety of proposals that can be categorized into two principal models:

The first model, relying on the concept of profit-sharing, integrates assets and liability side based on a principal called the two-tier *Mudarabah*. This model envisages depositors entering into a contract with a banking firm to share the profits accruing to the bank's business. The bank, on its asset side, enters into another contract with an agent entrepreneur who is searching for investible funds and who agrees to share his profit with the bank in accordance with a predetermined percentage stipulated in the contract. The bank's earnings from all its activities are pooled and are then shared with its depositors and share holders according to the terms of their contract. Thus in the profits model, the banks are allowed to accept demand deposits that earn no profit and may be

subjected to a service charge. This model, though requiring that the current deposits must be paid on the demand of the depositors, has no specific reserve requirement. It further stipulates that the bank is obligated to grant very short-term interest-free loans (*Qard Hasan*) to the extent of a part of the total current deposits.

The second model divides the liability side of the bank balance sheet into two windows, one for demand deposits (transactions balances) and the other for investment balances. The choice of the window would be left to the depositors. This model requires a 100 percent reserve for the demand deposits but stipulates no reserve requirement for the second window. This is based on the presumption that the money deposited as demand deposits is placed as *Amana* (safe-keeping) and must be backed by 100 percent reserve, because these balances belonging to the depositors do not carry with them the innate right for the bank to use them as the basis for money creation through fractional reserves. Money deposited in investment accounts, on the other hand, is placed with depositor's full knowledge that his deposits will be invested in risk-bearing projects; therefore, no guarantee is justified. In this model, too, the depositors may be charged a service fee for the provision of the safe-keeping services performed by the bank. Provisions of interest-free loans have to be limited to the fund deposited in such accounts by the depositors who may consider that the banks may be better equipped for this purpose. No portion of the deposits in current accounts or investment accounts will be required to be used for this purpose.” 2

A critical analysis of the perception of the commercial banking and its Islamic alternative reveals that the former relies on earning ‘interest’ and the latter relies on ‘trade profit.’ To explore the possibility of practising Islamic banking in India we need an affirmative answer to the

question. “Is trading permitted for banks under the existing Indian Law?”

M.L. Tannan has given an answer to the question in negative. “For the beginning of the accidental banking in India we must go back to the Calcutta Agency Houses, the trading firms, which undertook the banking operations for the benefit of their constituents. Prominent among these were Messers Alexander & Co. and Messers Fergusson & Co. Both firms combined banking with other kind of business, and both were predecessors of the early joint stock banks in India. The bank of *Hindustan*, a mere appendage of the former, was the earliest bank started under European direction in India.

Fatal Combination of Banking with commercial enterprise- That banking is incompatible with any other kind of business, was illustrated by the commercial disaster of 1829-32. Banking needs to be run with great caution, while adventure to a certain extent is necessary for other kinds of business eg. Industry & Commerce. Reckless speculation and a policy of placing profits before safety were responsible for the failure of the agency houses, which also involved a collapse of their banking departments. Having successfully withstood three severe runs on it, the Bank of *Hindustan* could not survive the failure of its parent firm in 1832. Even in the case of *Sholapur Bank Ltd* which went into liquidation in 1918, the failure was attributed to this fatal combination. Besides the usual banking business, this bank had the powers to do the business of “merchants or capitalists either as principal or agents”. The then Chief Justice of *Bombay*, passed very strong strictures on such a practice (*Govind V. Ramnath*, 32 Bom. L. R. 232) and suggested the legal prohibition of combining banking business with other commercial enterprise could have made what happened more difficult, if not impossible. The Indian legislation recognized

the principle of separation of banking business from any other kind of commercial undertaking”³.

Thus the Indian legislation had, inadvertently, adopted a policy which would go against the concept of Islamic banking much before its emergence.

Various provisions of Banking Regulation Act 1949, Reserve Bank of India Act 1934 and credit policy decisions of RBI which come in the way of Islamic banking are being reproduced below. Certain suggestions regarding amendments in the Indian Banking Law and in the model of Islamic banking to make them compatible with each other have also been made.

BANKING REGULATION ACT 1949:

Business of Banking Companies:

Sec. 6 Forms of business in which banking companies may engage – (1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely: (a)----(n).

(The complete text is available hereinafter under ‘the concept of banking’ in the contemplation of law-the Indian law).

Comments:

Clauses (a) to (n) of sub section (1) of Sec. 6 describe various forms of business but do not include trading of goods. However, clause (0) of sub section (1) of sec. 6 provides that any other form of business, which the Central Government may, by notification in the official Gazzette specify as a form of business in which it is lawful for a banking company to engage.

Sec 6 (2) says that no banking company shall engage in any form of business other than those referred to in the sub section (1)

Prohibition of Trading:

Sec. 8 Notwithstanding any thing contained in Sec 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realization of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referred to in clause (i) of sub section (1) of section 6.

[Provided that this section shall not apply to any such business as is specified in pursuance of clause (o) of sub-section (1) of section 6.]

Explanation - For the purpose of this section, “goods” means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and specie, and all instruments referred to the clause (a) of sub-section (1) of section 6.

Comments

The above provisions of the law are contrary to and strike at the basic contracts of Islamic banking like *Mudarabahⁱ*, *Musharakaⁱⁱ*, *Murabahaⁱⁱⁱ*, *Bai Salam^{iv}* (payment is made against deferred delivery) etc. on the assets side.

An Islamic Bank under these contracts has to deal, directly or indirectly, in buying or selling or bartering of goods.

Similarly there is no provision under the law for banks to accept deposits on investment account ie *Mudarabah* deposits on the liabilities side. These deposits are akin to equity while bank deposits are merely debts. Even if, the bank does not pay any interest on the money deposited, it continues to be customer's debtor. (*Official Liquidator, Hanuman Bank Ltd. V. K.P.T Nadar and others*, 26 comp. Cas. 81).

Suggestions

The above shortcomings can be made good by the Central Government, by virtue of the powers vested in it by clause (o) of sub-sec (1) of sec. 6, through a notification in official Gazette to expand the list of forms of business in which a banking company may engage, in addition to the business of banking, to include investment deposits, trading of goods, *Mudarabah*, *Musharakah*, *Murabaha*, *Bai Salam* etc. This does not require any legal amendment. (The full text of clause (o) of sub section (1) of section 6 is available hereinafter under "concept of banking in the contemplation of law—the Indian Law")

However, issuing of a notification may not be a healthy proposition for the reasons; firstly combination of banking with trading has been found to be fatal as stated above and secondly *Musharakah* and *Mudarabah* contracts of models of Islamic banking appeared to be non - feasible as explained in the latter part of this paper.

Sec. 9 Disposal of non-banking assets -

Notwithstanding any thing contained in Sec 6, no banking company shall hold any immovable property howsoever required, except such as required for its own use, for any period exceeding seven years from the acquisition there of or from the commencement of this Act, whichever is later or

any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period as the case may be:

Provided that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

Provided further that the Reserve Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

Comments

An Islamic bank is supposed to hold immovable property in its name for a period more than the prescribed limit. As such these provisions of Indian banking law restrict the scope of Islamic banking in the matter of “*Ijara*”^v. But we do not propose an amendment in the law as Sec. 19 (1) provides sufficient relief in the matter.

Sec. 17 Reserve Fund – (1)

Every banking company incorporated in India shall create a reserve fund, and shall, out of the balance of profit each year as disclosed in the profit and loss account, prepared under section 29 and before any dividend is declared, transfer to reserve fund a sum equivalent to not less than twenty percent of such profit (RBI now directed banks to transfer not less than 25% of net profit to reserve fund w.e.t March 31, 2001).

[(1A) Notwithstanding anything contained in sub-section(1), the Central Government may, on the recommendation of the Reserve Bank and having regard to the adequacy of the paid-

up capital and reserves of a banking company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not apply to the banking company for such a period as may be specified in the order:

Provided that no such order shall be made unless, at the time it is made, the amount in the reserve fund under sub-section (1), together with the amount in the share premium account is not less than the paid-up capital of the banking company]

Comments

The above provision on one hand restricts the freedom of Islamic bank in the distribution of dividend which is the only source of income on investment in Islamic bank. On the other hand this strengthens, presumably, the meager capital base of Islamic bank. We do not think this provision warrants an amendment in the law. It will not be out of place to mention here that the Govt of Malaysia has also incorporated a provision for creation of such a reserve for Islamic banks. 4

Restriction on nature of subsidiary companies:

Sec 19 (1) provides that a banking company shall not form any subsidiary company except a subsidiary company formed for one or more purposes namely.

- (a) the undertaking of any business which under clause (a) to (o) of sub-section (1) of section 6 is permissible for a banking company to undertake or
- (b) with the permission in writing of the Reserve Bank, the carrying on of the business exclusive outside India or

- (c) the undertaking of such other business, which the Reserve Bank may, with the prior approval of the Central Government, consider to be conducive to the spread of banking in India or to be otherwise useful or necessary in the public interest.

Explanation – for the purpose of Section 8, a banking company shall not be deemed, by reason of its forming or having a subsidiary company, to be engaged in the ‘business’ carried on by such subsidiary company.

Comments

The Reserve Bank has already permitted banks during 1991 to form subsidiary companies for the purpose of ‘leasing’ but at the same time it has put a cap on the total exposure of bank in leasing upto 10 percent of its total advances. This cap may be removed by RBI for the Islamic banks as they are not supposed to use depositors’ money in any kind of business. Thus Indian banking law is quite flexible for ‘*Ijarah*’ of Islamic banking.

(2) Save as provided in the sub-section (1), no banking company shall hold shares in any company whether as pledgee, mortgagee or absolute owner of an amount exceeding thirty percent of the paid up share capital of that company or thirty percent of its own paid up share capital and reserves which ever is less-----.

Comments:

This is the maximum limit for investment in shares of a particular company. This does not mean that a banking company can not hold the shares of a large number of

companies of an amount exceeding 30 percent of its own paid up capital and reserves. In view of diversification of investment the restriction is not bad. No amendment of law is required in this respect.

**Sec. 36 Further powers and functions of Reserve Bank –
(1) The Reserve Bank may -**

(a) caution or prohibit banking companies generally or a banking company in particular against entering into a particular transaction or class of transactions and generally give advice to any banking company,-----

Comments

By virtue of powers vested in it, Reserve Bank may issue guidelines for banks. Certain guidelines may not be in conformity with *Shariah*. The issue, if any, arises may be sorted out through dialogue. Therefore no amendment in law in this respect is required.

Ceiling on exposure to capital markets:

In terms of revised Reserve Bank guidelines effective from May 11, 2001 there is a ceiling of 5 percent (of total advances) on investments in capital markets. This ceiling is applied to the total exposure of a banking company to stock market (including loans and advances to corporates and stock brokers for investment in shares and debentures etc).⁵

Comments & Suggestions

Islamic banks are not supposed to invest depositors' money in the capital market. There should be no restrictions on investment of shareholders' funds of Islamic banks in capital market. The Reserve Bank may exempt Islamic banks from

following the above guideline. This is a policy matter and does not require any amendment of law.

Mandatory nature of the below mentioned provisions and forced involvement of banking company in the business of “interest”:

Following are the two provisions of banking law, which force a banking company to involve itself, directly or indirectly, in the business of “interest”.

1-Statutory liquidity requirement:

Sec. 24 Maintenance of a percentage of assets—

[(2A)(a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962 (36 of 1962),—

- (i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), and
- (ii) every other banking company, in addition to the cash reserve which it is required to maintain under section 18.

[shall maintain in India,—

- (A) in cash, or
- (B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost

price, market price, book value or face value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent or such other percentage not exceeding forty per cent, as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight;]

Comments:

Now RBI has got a free hand on SLR, (The Economic Times dated 12-01-2007). Presently this is 25% w.e.f. 22-10-1997.6

2-Cash Reserve Ratio

Reserve Bank of India Act, 1934.

Sec. 42 Cash Reserves of scheduled banks to be kept with the Bank -

[(1) Every bank included in the second schedule shall maintain with the bank an average daily balance the amount of which shall not be less than three percent of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub – section (2).

[Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than fifteen percent of the total of the demand and time liabilities].

The RBI is also empowered to pay or not to pay any interest on these balances.

(with effect from Jan 21, 1991 the RBI is empowered to increase this to 20%. Presently the CRR is 8.75% w.e.f 19-07-2008.)⁷

Comments:

Balances with RBI or with any other bank:

If the depositor bank pays interest on these balances, there is direct involvement of the Islamic bank in the business of interest. Even if no interest is paid on these balances, the deposits are to be utilized by the depositor bank in the business of 'interest' resulting in indirect involvement of Islamic bank in or supporting the business of 'interest'.

Other venues for SLR:

Keeping funds in the form of cash is not desirable due to security concerns. Investment in gold carries physical and market risks. Moreover keeping the funds idle in the form of cash or gold is akin to *Kināh*, a prohibited act in *Shariah*. The Government securities are interest-bearing instruments. Thus the situation warrants amendment of the relevant provisions so as to ensure the compatibility of Islamic banking with the conventional banking.

The purpose behind these two provisions is to ensure availability of short-term and long-term liquidity for banks. This can be well achieved by a provision of 100% reserve requirement as envisaged by the aforesaid second model of Islamic banking.

Instead of keeping these funds of Islamic banks in current account with RBI or with any other bank it may be more advisable to allow Islamic banks to keep the funds in the form of cash and in the current account of the Central Government, (comprised of sub-accounts of individual Islamic bank) with RBI or any other specified bank. For receipt and withdrawal requirements Islamic bank should have an authority to operate the sub-account. The float available to the Central Government should be utilized by it in reducing its interest-based borrowings, making interest free loans to the weakest of the weaker sections of society and other Islamically permissible activities. Islamic banks should be paid a commission by the Central Government on cost-plus basis as is done in the case of Public Provident Fund (PPF) accounts maintained by the banks. The Central Government should also provide free insurance cover to the cash-in-transit and in the branch of Islamic banks and other operational risks.

In view of above proposed 100% reserve requirement, Islamic banking may be exempted from the application of Sec 42 (1) of Reserve Bank of India Act 1934.

Therefore section 42(1) should be amended to read as under:

Sec. 42 Cash Reserves of scheduled banks to be kept with the Bank. (*This shall not apply to the business of interest free banking.*)

[(1) Every bank included in the second schedule shall maintain with the bank an average daily balance the amount of which shall not be less than three percent of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2).

[Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not

be more than fifteen percent of the total of the demand and time liabilities].

However sec. 24 (2A)(a) of the Banking Regulation Act, 1949 may be amended to read as under:

24. Maintenance of a percentage of assets—[(2A)(a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962 (36 of 1962),—

- (i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), and
- (ii) every other banking company, in addition to the cash reserve which it is required to maintain under section 18.

[shall maintain in India,—

- (A) in cash, or
- (B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent or such other percentage not exceeding forty per cent, as the Reserve Bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time

liabilities in India, as on the last Friday of the second preceding fortnight;]

(b)and

(c) *Every bank practicing interest-free banking shall maintain in India (a) in cash or (b) in its sub-account of current account of Central Government with Reserve Bank of India or any other bank specified by the Reserve Bank an amount not less than hundred percent of its liabilities in respect of interest-free banking on daily basis.*

Thus the savings of the public shall be utilized in the interest of the nation and not for the monetary gain of shareholders of the banks. In this way creation of money through deposit multiplier and credit creation can also be checked to lower the rate of inflation. Thus Islamic banking is not for the exclusive benefit of the *Muslims* but it is in the interest of the nation. *Faridi* has correctly said, “Islamic economics is neither the parochial nor sectarian. It should not and can not be construed as *Muslim* economics that is an economics that seeks the amelioration and upliftment of *Muslim* community to the exclusive of all nor does it correspond to the socialist goal of economic welfare of the proletariat only. Islamic economics seeks the universal welfare of mankind”⁸.

The idea of 100% reserve requirement against bank deposits may not be looked at as a privilege of Islamic banking. Some economists, notably Milton Friedman have already advocated such a system.⁹

Harsh RBI guidelines for opening new banks in private sector:

The following provisions of RBI guidelines 1993 as amended upto date are found as deterring the opening of Islamic bank in India. We, therefore, propose suitable amendments.

1- The minimum paid up capital requirement for such a bank is Rs 200 crore to be increased to Rs. 300 crore within three years of commencement of business.¹⁰ The promoters quota shall be a minimum 40% of the paid up capital of the bank at any point of time, which can go upto 74%.¹¹

Comments

The higher requirement of paid up capital as also the promoters' quota have been fixed in view of the highly leveraged position of the banks which Islamic bank is not supposed to assume. The poor economic condition of *Muslims* and their meager appearance in capital market suggest that the above norms are too high to be adhered to by Islamic banks.

Suggestions

Islamic banks may be exempted from the application of the above provisions. It is, therefore, suggested that in this respect only the provisions of company law 1956 and Securities And Exchange Board of India (SEBI) guidelines may be applied to Islamic banks.

These relaxations may not be found to be quite unique for Islamic banks. The local area banks, in view of their low exposure to risks are already enjoying some relaxations in this respect. For them minimum capital requirement is Rs 2500 Lacs (raised from Rs 500 Lacs during Sep 2003).¹²

2- A new bank shall not be allowed to set up subsidiary or Mutual Fund at least upto three years of its establishment. The aggregate of such investments in the subsidiaries and mutual funds (if and when set up) and portfolio investments in other companies shall not exceed 20 percent of the bank's own paid up capital and reserves.¹³

Comments

The above provisions have been introduced to protect the interest of the depositors as also to allow time to new banks to gain experience in the field of innovative business. This is once again made clear that Islamic banks are not supposed to use borrowed capital in their business. As against the financial intermediation on the basis of interest, Islamic banks are to function as merchant banks or investment banks. Any restriction on Islamic banks in setting up mutual funds or subsidiaries shall defeat one of the main objectives of Islamic banking.

Suggestions

It is, therefore, suggested that Islamic banks may be exempted from application of the above guideline of RBI. However, guidelines issued by SEBI in this respect may be applied to Islamic banks too.

3- The holding of such a bank in equity of other companies shall be governed by existing provisions applicable to other banks viz.

(a) 30% of the banks or investee company's capital funds, whichever is less, as set out under Banking Regulation Act, 1949 and

(b) 1.5% of incremental deposits of the bank during a year.

Comments & Suggestions

In respect of (a) above there is no objection but in respect of (b) there should be no restriction on Islamic banks to invest

the share holders funds i.e. capital plus free reserves in equity of other companies.

The proposed amendments in the Indian Banking Law and RBI guidelines may not be taken in the spirit of political appeasement of a particular religious community in a secular state. But they should be seen as conducive to the spread of banking in India as also useful and necessary in public interest. The financial inclusion of the society is not possible without making above amendments in the law.

Now we have to study the model of Islamic banking and suggest some amendments within the limitations of *Shariah* to make the model compatible with Indian Banking Law. But before proceeding further in the matter, we have to discuss various constituents of Indian Banking Law, its nature and the concept of “banking” in the contemplation of law.

Constituents of Law of Banking:

The Law of Contract, the law of Tort and other branches of commercial and civil law are applicable to banks as to others. However, Bankers’ Books Evidence Act, 1891, Reserve Bank of India Act, 1934, and Banking Regulation Act, 1949 are known to be enacted for bankers alone.

Nature of Law of Banking:

The English Banking Law during the post industrial development period was largely judge-made law, based on the recognition of certain customs of advanced European countries. In India courts generally applied English Law relating to negotiable instruments, when the contesting parties were Europeans but in the case of *Hindus* and *Muslims* their respective personal laws and usages were made applicable.¹⁵

This is to be noted here that merely recognition of the customs and usages of different communities while framing a law may not be considered as a communal act.

Concept of ‘Banking’ in the contemplation of the law:

On account of multifarious functions and services of the modern banks no satisfactory definition of ‘banking’ has so far been framed by the legislators. Even the English Law has failed to provide us the satisfactory definition of the terms ‘banker’ and ‘customer’.¹⁶

The English Law:

Dr. Herbert L. Hart, the Author of the well known treatise, Law of Banking says, “A banker is one who in the ordinary course of business, honours cheques drawn upon him by persons from and for whom he receives money on current accounts”

According to this view the expression “bank” shall be considered so as to include only those institutions where a substantial part of business consists of the receipts of money on current account to be drawn upon by cheques, (Banker & Customer by SE Thomas).¹⁷

Halsbury: defines banker as “An individual partnership or corporation whose sole predominating business is banking, that is the receipt of money on current account and the payment of cheques drawn by and the collection of cheques paid in by a customer”.¹⁸

The Indian Law:

The Banking Regulation Act 1949 Sec 5(c), defines banking company: “as a company which transacts the business of banking in India”.

Sec 5 (b) defines “Banking” as “accepting” for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise.”

Section 6, describes the forms of business in which banking companies may engage:

(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely:

(a) The borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundis, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, travellers’ cheques and circular notes; the buying selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes, the acquiring, holding, issuing on commission, underwriting and dealing in stocks, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds, scrips or other form of securities on behalf of constituents or others, the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposits or for safe custody or otherwise; the

providing of safe deposit vaults; the collecting and transmitting of money and securities;

(b) acting as agents for any Government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent or secretary and treasurer of a company;

(c) contracting for public and private loans and negotiating and issuing the same;

(d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

(e) carrying on and transacting every kind of guarantee and indemnity business;

(f) managing, selling and realizing any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;

(g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;

(h) undertaking and executing trusts;

(i) undertaking the administration of estates as executor, trustee or otherwise;

(j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependents or connections or such persons, granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing money for charitable or benevolent objects or for any exhibition or for any public, general or useful object;

(k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company;

(l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;

(m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;

(n) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;

(o) any other form of business which the Central Government may, by notification in the Official Gazette, specify as a form of business in which it is lawful for a banking company to engage.

(2) No banking company shall engage in any form of business other than those referred to in sub sec (1).

Accepting deposits on current account, the primary characteristic of banking:

If we analyze section 5 (b) of the Banking Regulation Act 1949, then it becomes clear that receiving money on current accounts from the customers and honouring their cheques is an essential characteristic of banking. This fact has also been established in the following court case:

In *Karuppan Chittiar V Somasundaram Chettiar* (1961, 31 Comp Cas 378) *Jagadisan J.* said, “The essence of the relationship of banker and customer is the affording of the facility to the customer to draw funds from the bank by issuing cheques. This is primary characteristic of a banking business. Without it the business is not of banking as known and understood in the English Law”.

Lending of money, no distinguish phase of banking:

We can obtain the same result from Sec 6 (1) of Banking Regulation Act, 1949 which provides that in addition to the business of the banking a banking company may engage in any one or more of the different kinds of business specified in the various clauses of sub section (1) of section 6. This also means that there is an essential business as stated in section 5 (b) which is the real business but banking companies are permitted to carry on other forms of business as well which are auxiliary or incidental to the main business. Thus interest- based borrowing and lending of money which are commonly known to be essentials of banking are not its distinguished features. Gupta has rightly said, “Lending of money may be a phase of banking business but it is not the main phase or the distinguished phase”.¹⁹

Profit motive is not necessary for banking:

This fact has been established in the following court case:

In *Irinjalakudh Bank Ltd. V Poruthussary Panchayat, Sobramaniam Potti, J. of Kerala High Court*, said, "I do not think that the view that business of banking must necessarily be one which is run for profit is consistent with the present day concept of banking. English cases which are relied on by Madras High Court also do not appear to support the view that the running of the banking business must be for profit or that profit motive is one of the elements necessary to constitute the business one of banking --- banking, as it is understood today, need not necessarily be a business run with a profit motive". The learned judge held a treasury to be a banker in so far as it maintained banking accounts for certain panchayats [(1970) 40 Comp. Cas 767].

Moreover under negotiable instruments act 1881 'banker' includes any person acting as a banker and any post-office savings Bank is also a banker (preliminary clause 4). The balances of post-office savings accounts are withdrawable by cheques subject to certain conditions.

Lawful name of Banking Company:

In order to distinguish a banking company from any other company Banking Regulation Act 1949 insists upon banking company and prohibits any other company to use the word 'bank' 'banker' or 'banking' along with its name.

Therefore Sec 7 (1) says that no company other than a banking company shall use as part of its name (or in connection with its business) any of the words "bank", "banker" or "banking" and no company shall carry on the

business of banking in India unless it uses as part of its name at least one of such words.

Implications of Section 5 (b), and Section 7 on Islamic Banks

The 'business of banking' as defined earlier is to accept deposits on current accounts withdrawable by cheque. In order to use any of the above words as part of its name Islamic bank has to accept deposit on current accounts. Fortunately this business is common in both the aforesaid models of Islamic banks.

Other Banking Services, Islamic Bank can provide

In addition to the above main banking service the Indian Law provides a wide array of fee based *Shariah* compliant services, for example letter of credit (backed by 100% cash margin), letter of guarantee (backed by 100% cash margin), safe keeping of documents and valuables, collection of bills, transfer of funds, hiring of safe deposit boxes, administration of property, estates and wills, share brokerage, mutual insurance (*Takaful*) etc. The Islamic bank can also offer these services without requiring any amendments in law.

Islamic Financial Services on behalf of Government:

On behalf of the Government, Islamic banks can provide interest free loans to the weakest of the weaker sections of the society subject to the recovery of actual administrative cost from the borrowers. Under *Bai Salam* (payment of price against deferred delivery) contract of Islamic banking, Islamic banks on behalf of Govt may make advance payment of price, to the farmers, for the agriculture produce to be procured under minimum support price mechanism.

Islamic Bank as a Source of Income for Government:

The Govt. can quote two rates for agricultural produce; the lower rates for deferred delivery and higher rates for spot delivery. The difference is the revenue for Govt. In this way Govt can recover much of the cost of operation of current accounts incurred as commission paid to the Islamic banks and free insurance cover provided to them.

Involvement of Islamic banks in *Mudarabah* and *Musharakah*:

As an alternate to indirect finance or financial intermediation on fixed return basis the models of Islamic banking envisage the concept of two tier *Mudarabah*. However there is no provision in Indian Banking law for a bank to accept investment deposits (*Mudarabah* deposits) on the liability side and provide the funds to the seekers on profit/loss sharing *Mudarabah* or *Musharakah*, basis because these contracts involve direct or indirect 'trading' which is prohibited for banks. Still no amendment in the law of banking is suggested to accommodate these contracts in banking on certain valid grounds as discussed below.

The combination of trading with banking under *Mudarabah* or *Musharakah* as envisaged by the models of Islamic banking is nothing more than a hypothesis. Even after a lapse of a period of more than three decades we do not find even a single successful story of Islamic banking based on these contracts. This fact has been well recognized even by the Islamic economists.

Usmani says:

“It is true that there are practical problems in using *Musharakah* as a mode of financing, especially in the present atmosphere

where Islamic banks are working in isolation, and mostly without the support of their respective governments. The fact, however, remains that Islamic banks should have advanced towards *Musharakah* in gradual phases and should have increased the size of *Musharakah* financing. Unfortunately the Islamic banks have overlooked this basic requirement of Islamic banking and there are no visible efforts to progress towards this transaction even in a gradual manner, even on selective basis.”²⁰

Needless to say that *Musharakah* could not occupy a seat on the centre stage of the transactions of Islamic banking supported by government in Malaysia.

In the words of *Ahmad*, “The basic trouble with Islamic finance at a theoretical plane is that contemporary theory of finance in the western world deals with real world situations while theory of Islamic finance deals with a world that is not yet in existence. Within the era of Islamic finance, there is again a hiatus between theory and practice. The theory deals with a normative world, but the hiatus between theory and practice takes place in the real world in which the norms are far removed from the theoretical models”.²¹

As discussed earlier, prohibition on trading by banks has been imposed by the law on account of fatal consequences of such a combination experienced by the banks in the past. A hypothetical case of Islamic banking in this respect cannot be recommended against an empirical study.

Even under the existing US banking law, profit and loss sharing (PLS) arrangements such as *Musharaka* and *Mudarabah* may be difficult to implement since commercial banks in United States are restricted from entering partnership or taking equity stakes. ²²

In UK Islamic Bank of Britain accepts deposits on the basis of *Mudarabah* and *Wakalah* but deploys funds on the basis of *Murabaha*, *Ijarah* and *Tawarruq*. Even in the case of *Mudrabab* the depositors are protected against loss as deposits are guaranteed by law through a deposit protection scheme in full upto £ 20000 and proportionately above that amount. This goes against the *shariah* maxim ‘profit goes with the responsibility for loss.’ However Wilson clarifies, “To get around the legal position investment depositors with the Islamic Bank of Britain are asked to sign a waiver foregoing their rights in the interests of *Shariah* compliance, although they can not be obliged to sign. In practice the majority have been writing to sign for this opt out.”²³

This is pertinent to mention here that this type of waiver could not be implemented in case of a loss making Islamic Financial Institutions in India. *Hasib* and *Dalvi* say “while this is true as far as sharing of losses with depositors are concerned, there are legal hurdles and pit-falls, in implementing the understanding.²⁴

The waiver signed by the depositors of Islamic bank of Britain is likely to meet the similar fate when it comes to share the loss.

Efficacy of contracts of *Musharakah* and *Mudarabah*:

Musharakah and *Mudarabah* in their original forms are very efficient financial products in a limited society only. The reason is that they contain rights and liabilities of the partner’s interest. Each partner acts as an agent of other partners. The liability of each partner is unlimited. For the success of partnership it is necessary that each partner should know the other partners well. Similarly each partner has a veto power in the partnership. So the consensus of opinion of all partners in business matters is necessary. Each partner

has a right to come out of partnership resulting in the dissolution of the firm. This mode of business organization is very much successful for venture-to-venture and project-to-project business in partnership of a limited number of persons. However for a large number of partners who do not know each other contributing to huge capital for large and long lasting business the contemporary world has provided a much mature form of business organization in the shape of Ltd. company!

On the basis of above logic the Indian Law made provisions that the maximum number of partners in a firm carrying on banking business can be 10 and in any other business 20. The maximum number of members in a private company is 50, there is no limit to the maximum number in case of a public company (Section 11 of Companies Act 1956).

Scope of *Musharaka* and *Mudarabah* under the existing Banking Law

This does not mean that there is no scope for *Mudarabah* and *Musharakah* under the modern banking system. Even now *Mudarabah* or *Musharakah* is an inevitable part of the modern financial system. The basis of entire commercial investment can be broadly categorized into two parts namely 'Equity' and 'Debt'. Equity which represents *Mudarabah* or *Musharakah* is an inevitable part of the investment. The only thing is that the banks are not allowed to involve themselves in these contracts directly or indirectly except in a limited quantity. However banks can act as facilitators to establish this relationship between the owners of funds and the users of funds. This is categorically known as investment banking or merchant banking.

Merchant Banking

Merchant banking stands for providing various services relating to capital market and finance to corporate sector. This includes not only the activities for the above purpose in the country but at times arranging funds from outside the country as also investment abroad. A commercial bank has funds with it which it mobilizes through deposits and borrowings or other ways and deploys or lends these funds, whereas a merchant bank does not have any funds in its own but it has the expertise and access to various sources of funds as per needs of the client.

The prominent multinationals which practice commercial banking combined with investment banking are ABN Amro, BNP Paribas, and Deutsche Bank etc. There are also some multinational independent investment banks like Goldman Sachs, Merrill Lynch, Morgan Stanley etc.

In India *Kotak Mahindra* Bank Ltd, ICICI Bank Ltd, and State Bank of India, through their investment banking companies, are the active players in this field.

Non-Interest business of banks in India; A Source of Income of Islamic Banks:

Since second half of 1990s Indian banks have been adopting universal structure. Consequently Indian banks are diversifying their operations to generate income from non-interest sources viz fee based sources, income from financial services, security trading, foreign exchange etc. No doubt, interest income still remains their major source of revenue but non-interest income is gaining significance against the declining trend of interest income in the total income of banks.

The following table shows, on an average, increasing trend of non-interest income.

Share of non-interest income as percentage of total income.²⁵

Banks/year	2000	2001	2002	2003	2004	2005	2006
Nationalized Bank	12	11	15	17	20	16	14
SBI & Associates	14	13	13	17	17	18	17
New Private Banks	23	19	23	19	19	23	24
Foreign Banks	21	22	26	26	26	31	29

Interestingly foreign banks with low deposit base have an edge on Indian banks in the matter of growth in non-interest income. Same is true in respect of new private sector banks as compared with public sector banks.

In the light of the above analysis, it can safely be said that Islamic banks without any deposit base can compete with other banks in generating income from non-interest sources.

Merchant Banking Services in India

As a substitute of financial intermediation between the lenders and the borrows on the basis of the 'interest', performed by a modern commercial bank, Islamic bank under its Merchant Banking Division can provide services like project counselling, technology tie ups, collection of funds from capital markets, portfolio management, mutual funds, venture capital funds, private equity fund, gold exchange traded funds, real estate investment trusts,

collective investment schemes of collective investment management companies, bought out deals, rehabilitation of sick units, over the counter (OTC) market operations, mergers and amalgamations etc. All of the above activities belong to different kinds of business specified in clauses (a) to (n) of sub-section (1) of section 6 or Sec (19), of Banking Regulation Act 1949 at the same time they can be made *Shariah*-compliant too.

Removal of an Apprehension

The major apprehension in respect of 100% equity-based company is that the taxation policy over the world has a bias against equity in favour of debt. This reduces the competitive strength of 100% equity-based company in competition with a debt-equity mix company. This is true only during the period when the rate of profit on funds employed remains higher than the rate of interest on borrowed funds. In fact, in case of many business units rate of interest remains higher than the rate of profit. In such a case 100% equity company has an edge over the debt-equity-mix company. Moreover one should not ignore the fact that very often highly leveraged position of a business entity leads to its bankruptcy.

Blueprint of Models of Islamic Banking

In the light of proposed amendments in Banking Law, RBI guidelines and the model of Islamic banking, the following proposals can be considered as blueprint of model of Islamic banking.

1. It can be a for-profit Islamic banking company, carrying on the *Shariah* compliant activities of banking.
2. It can be a company under section 25 of Indian Companies Act 1956 non-profit company to increase the efficiency of

financial markets in general and financial inclusion of *Muslims* in particular.

3. Islamic banking can be carried out by the post-offices upto the extent of accepting deposits in savings bank account by providing an option to the account holders to forego the interest and maintaining 100% reserves in the government's account against their deposits. There is good scope for selling Islamic financial products by post-offices.

4. Islamic banking can be carried out by the local and foreign commercial banks & cooperative banks as an add-on business and through dedicated branches in accepting deposits in current account with 100% reserves to be maintained in Govt. account. The banks should be paid commission on cost plus basis by the Govt. The commercial banks under their merchant banking operations can create *Shariah* compliant investment avenues and sell *Shariah* compliant products. Cooperative banks can also sell Islamic financial products and accept deposits in current account in the way as explained above.

In view of the foregoing we may say that the *Muslim* parliamentarians, in their representation before Prime Minister *Manmohan Singh* and UPA Chairperson *Sonia Gandbi*, have rightly underlined that Islamic banking can be easily introduced without disturbing the basic fabric of Indian financial system.²⁶

Conclusion

The most important function of the modern commercial banks is financial intermediation between the lenders and the borrowers on the basis of 'interest'. However Islamic economists claim that an alternative banking system can be evolved without interest on the basis of *Musharakah* and

Mudarabah. A critical perception of the commercial banking and its Islamic alternative reveals that the former relies on earning 'interest' and the latter relies on 'trade profit'. However a combination of banking with 'trade' has been proved fatal for banking in the past. Therefore the Indian legislation had, inadvertently, adopted a policy of separation of 'trading' from banking much before the emergence of the concept of Islamic banking. As such a number of provisions of Indian banking law come in the way of contracts of *Musharakah* and *Mudarabah* based on trading. This shortcoming can be removed by the Central Government without making an amendment in the law. The Central Government is empowered by law to notify any form of business as a business in which a banking company may engage. But we do not recommend issuing of such a notification by the Central Government to include *Musharakah* and *Mudarabah* in the list of forms of business in which a banking company may engage for two reasons—firstly the combination of banking with 'trading' has been proved fatal for banking and secondly we do not find a successful story of Islamic banking based on *Musharakah* and *Mudarabah*. Therefore a hypothesis can not be advocated against an empirical study.

However there are two provisions of law that force a banking company to involve itself, directly or indirectly, in the business of 'interest'—Sec. 42 of Reserve Bank of India 1934 and Sec. 24 (A) of Banking Regulation Act 1949 force a banking company to keep a portion of its liabilities in interest-bearing accounts / instruments. Thus there is a genuine need of Islamic banking for an amendment of law in this respect.

The purpose behind these provisions of law is to ensure short-term and long-term liquidity for banks. This can be well achieved by Islamic bank through 100 percent reserve

requirement as against the proportionate reserve requirement according to the said provisions of law. Therefore it is recommended that these provisions of law should not apply to the business of interest free banking. Further it is proposed that 100 percent reserve against liabilities of banks in respect of interest-free banking should be kept in (a) cash and (b) the current account of Central Government with Reserve Bank. The Central Government should, in turn, ensure to utilize the float available to it in reducing its interest-based liabilities and in all other *Halal* purposes. The Government should also provide free insurance to cover the security and operational risks of banks and pay them a service charge on cost-plus basis for this service.

Certain amendment in the model of Islamic banking are also required to make it compatible with Indian Banking Law. But before recommending such amendments, it is necessary to describe the salient features of banking in the contemplation of law as under:

- Accepting deposits on current account is the primary characteristic of banking.
- Lending of money is not a distinguished phase of banking.
- Profit motive is not necessary for a bank.

In view of the above features of banking more particularly the 'lending of money is not a distinguished phase of banking' Islamic economists should not make *Musharakah* and *Mudarabah* obligatory (*Fard*) for Islamic banking.

This should not mean that there is no scope for *Musharakah* and *Mudarabah* contracts in the Indian Banking Law. The only thing is that the banks can not involve themselves, directly or indirectly in these contracts. However there is ample scope for banks to act as facilitator to bring together the owners of

funds and the users of funds through these contracts. For this purpose banks can provide merchant banking services like raising funds from capital markets in the form of equities, establishment and management of Mutual Funds, Private Equities, Venture Capital Funds, Real Estate Funds, Real Estate Investment Trusts, Gold Exchange Traded Funds, Portfolio management etc.

Thus practising of Islamic banking, subject to minor amendments in law and in the model of Islamic banking, in India is possible by accepting deposits on current account and providing all *Halal* auxiliary banking services most importantly through merchant banking products akin to *Musharakah* or *Mudarabah* without disturbing the main financial fabric of the country.

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Explanations:

- i *Mudarabah* is a form of partnership or joint venture where one party provides the capital and the other provides management expertise. Profit is shared on a pre-determined ratio and loss is borne by the capital owner.
- ii *Musharaka* is a partnership where all parties to the agreement provide capital, have a right to take part in the management and share profit on a predetermined ratio but bear loss in the proportion of capital contributed by each.
- iii *Murabah* is an agreement of sale of goods at a pre-determined profit (mark-up) on the price.
- iv *Bai Salam* is contract of sale of goods in which an advance payment is made for a delayed delivery of goods.
- v *Ijara* literally means leasing.

Globalization and Education: Opportunities and Challenges for Indian Muslims

Abdul Waheed

Introduction

We inhabit a world characterized by rapid transformations, affecting every aspect of our public and private life, for better or worst. It is called globalization. Being propelled by multiple factors such as advancement in tele-communication technologies, deregulation of market, collapse of Soviet Union etc., globalization compressed time and space, intensified worldwide relations and generated competition of unprecedented scale. It is a social phenomenon with vast implications for our culture, society, polity and economy.

Education is not an exception which is affected in many ways. Globalisation radically transforms contents and courses of study, teaching-learning methods, teacher-student relationships and modes of education. It also promotes processes of setting educational institutions abroad, offering educational programmes in foreign countries through tie ups and collaboration, admitting foreign students, use of internet for learning and research, visit to foreign universities, participation in international events etc. Globalisation creates and disseminates knowledge with greater intensity and at wider scale, compelling Governments of different countries to bring about necessary changes in their orientation and policies of education.

The Government of India introduced 'globalised educational policies' from the last two decades of 20th century and intensified them from the beginning of 21st century. Many scholars described these policies, mainly progressive

withdrawal of the state from education and opening it to private players, as against the constitutional principles of 'social justice' and 'equity'. They argued that these policies will speed up educational marginalization of excluded communities. For it is beyond their means to afford exorbitant cost of private education. Hence, the consequences of these policies will be catastrophic for Muslims as they are most educationally and economically backward community of the country. Conversely the argument of this paper is balanced one. We see both opportunities and challenges for Muslims. Opportunities are seen in comparative framework i.e. before and after the introduction of these policies and not in relation to other communities.

Any scientific enquiry into the issues related with Indian Muslims, including the present one, is impeded by the dearth of empirical data. No serious attempt is made to investigate the impact of globalization on the educational status of Muslims. Therefore, the arguments of this paper should be considered as initial reflections on the issue. These reflections are based on both quantitative and qualitative data of limited scope. Even though we do hope that the paper may generate a meaningful and objective debate on the issue.

Globalization:

Globalization is a buzz word. Everywhere it is discussed whether one likes it or not. However, the term was hardly used either in the academic literature or in everyday language until the late 1980s. It has come from nowhere to be almost everywhere. (Giddens, Anthony: 2002).

Globalization has generated intense discussion and debate from the last two decades of the 20th century, resulting into the production of innumerable writings of both

impressionistic and scientific quality. Yet the word has neither been understood properly nor has it been defined uniformly. Although there is no accepted definition of globalization, we can identify some of its main contours by following James Beckford (2003: 119) which are as follows: 1) “the growing frequency, volume and interrelatedness of cultures, commodities, information, and peoples across both time and space; (2) the increasing capacity of information technologies to reduce and compress time and space (giving rise to notions such as the global village); (3) the diffusion of routine practices and protocols for , Bryan, 2011: 6).

Sharp divisions exist among scholars about the origin and the history of globalization. For Turner (2011) roots of globalization lie beyond the emergence of capitalist world system or modernity. The development of socio-cultural forces, contributed to the emergence of the world as a single place is independent of economic developments, occurred during the recent history of human kind. However, socio-economic, political and technological changes from the late 1970s accelerate the process of globalization. But the role of world religions and historical events like ‘the treaty of Westphalia’ and the ‘discovery of America’ are not less important in shaping the form and the nature of globalization. He writes that “Globalisation theory has somewhat neglected the obvious fact ‘the world religions’ have been globalizing forces long before the modern period. In the early modern period, Islam, mainly through the development of trade, developed into a world culture. The same is true for Christianity, which spread through missionary activity and often in tandem with western colonial expansion in Africa and parts of Asia.”(2011:5-6).

On the contrary Anthony Giddens (2002) links globalization with modernity and considers it ‘New and Revolutionary Age’ or ‘High Modernity’. He describes four key institutions of

modernization — capitalism, surveillance, military power and industrialism (transformation of the environment). These are, in turn, used to describe four dimensions of globalization — the world capitalist economy, nation-state systems, world military order and the international division of labour. For him globalization is a powerful and irreversible current of change, aptly described as ‘Juggernaut’, affecting almost every aspect of what we do, for better or worst. “These changes are being propelled by a range of factors, some structural, and other more specific and historical. Economic influences are certainly among the driving forces-especially the global financial system”. He explains the significance of the integration of World Financial System in following words:

The level of world trade today is much higher than it ever was before, and involves a much wider range of goods and services. But the biggest difference is in the level of finance and capitals flow. Gared as it is to electronic money –money that exist only as digits in computers – the current world economy has no parallels in earlier times. In the new global electronic economy, fund managers, banks, corporations, as well as millions of individuals investors, can transfer vast amount of capital from one side of the world to another at the click of mouse. As they do so, they can destabilize what might seem to be rock solid economy. (2010)

However, he adds that globalization is not merely economic. It is also technological, political, cultural and social. It is multi-dimensional, accelerated by factors such as advancement in telecommunication technology, collapse of Soviet Union, growth of inter-governmental organizations and multinational corporations etc.

Forces of globalization, though largely controlled by Western countries, do not operate in uniform way but completely in opposite fashion. Therefore the consequences of globalization are contradictory like hegemonization-subjugation, homogenization-heterogenization, global-local, winners-losers etc. Globalization intensifies competition among nations and communities, accelerate the creation and dissemination of knowledge, ideas and technologies, deregulation of economy and other sectors, withdrawal of state from providing services to people and consequently, leaving them to the market forces. Indeed, competition and free marketing are the dominant characteristics of globalization.

National Education Policy of India:

Maulana Abul Kalam Azad, the first education minister of free India, attempted to de-colonize education system on the one hand, and on the other hand promoted liberal and humanistic education. While associating education with national culture, he visualized education as a catalyst for national integration, economic development and upgradation of human resources, science and technology. Azad or Nehruvian era's conception of 'National System of Education' was expressed through the first National Education Policy of 1966, formulated as a sequel to the report of Education Commission, headed by Prof. D.S. Kothari (1964-66). The commission rightly linked education with the problems of development and social transformation. "A study of the commission's report reveals, among others, the following set of important premises:

1. education is a powerful means of social transformation and nation building.
2. the heritage of Indian freedom struggle must continue to inspire our children and youth.

3. education shall promote human, moral and scientific values .
4. the education system must be designed to build a democratic, egalitarian, secular and forward-looking society as envisaged in the constitution.
5. the education system must be rooted in the principles of social justice and equality enshrined in the constitution.
6. alleviation of poverty, reduction of inequalities (related to class, caste, religion, region, gender and language), promotion of social harmony and strengthening of national unity shall be the central concerns of education.
7. the state has a constitutional obligation as well as a key role in educational planning, development and mobilization of resources.
8. a nation-wide system of promoting excellence at all stages of education, combined with accessibility to various sections of society, needs to be institutionalized. (Parkash, Ved:2008, 1-2)”

This kind of educational conception and policy framework could also be seen in the ‘National Education Policy’ of 1986 which underscored the need of enlarging the network of education at all types and providing quality education to all citizens of the country. Indeed, ‘Greater Access’ and ‘Equal Access’ were two of its major goals. For the first time the policy document included a chapter on the problems of educational backwardness of minorities and promised to ameliorate their educational status.

But the educational progress accomplished did not meet the goals of these welfare oriented policies. Failures were more conspicuous than gains. Government of India did not provide requisite grant to educational sector. Nor did it implement these policies judiciously and effectively. Neither

elementary education was universalized nor was higher/technical education expanded to the extent of meeting the growing demand of education. Inter-regional and inter-group educational inequalities were grown as the benefits of these policies did not percolate down to the lower rungs of the country. 'Greater Access' and 'Equal Access' remained unfulfilled goals.

Globalised Educational Policies of India

The era of globalization began with the introduction of 'neo liberal economic policies' or what was called 'Reforms' in India from 1990s. The unabated 'reforms' did not remain confined to economy alone but also embraced all other sectors, including service providing sectors like education. Moved by globalization Government of India introduced radical changes in the policies/schemes of both higher/technical and elementary education from the last two decades of 20th century and intensified them from the beginning of 21st century. These changes were introduced through Five Year Plans, Annual Budgets, Ministry of Human Resource Development (HRD), Government of India's schemes and announcements, University Grant Commission (UGC), executive orders etc. As the driving force of these changes was the pressure, unleashed by neo liberal economy, they are referred here as 'globalised educational policies'. Expansion and privatization of education have been major characteristics of the policy change.

a) Changes in Elementary Education

Although the constitution of India directs the state through Article 45 to provide free and compulsory education to all children until they attain the age of 14 years within the period of ten years from the commencement of the constitution, the

goal has not been accomplished so far. About one third population in the age group of 06 years and above remained illiterate and very few children in the age group of 14 to 18 years had access to secondary education until the end of the 20th century. Thus the Supreme Court of the country adjudicated for making elementary education a fundamental right. The 'Millennium Development Goal' (MDG), set up by United Nations Organization (UNO) in 2000, pressurized the government to achieve the target of Universalization of Elementary Education (UEE) by 2015. It was also realized that school education was a pre-requisite for entry into higher and technical education, essential for generating human resources required by growing economy and a dignified place in knowledge society. As a result a nation wide drive was launched to UEE through 'Sarva Siksha Abhiyan'(SSA) in 2001. The SSA is a mega scheme incorporating various measures for providing free and compulsory education to all children up to the age of 14 years across the length and breadth of the country. It promised to provide an elementary education school to every habitation within a radius of one kilometer. The Parliament also passed a Bill in 2009, making elementary education a fundamental right. This is known as 'Right to Elementary Education' (RTE) Act. Despite many bottlenecks in the implementation of the SSA and RTE, it has expanded the network of school education

b) Changes in Higher/Technical Education

Higher/technical education is central to the development of science, technology and human resources, badly needed for the progress and prosperity of a nation. Despite many efforts the performance of the country in this sphere of education remained short of the requirements of growing economy and society until the end of the 20th century. There were only 250 universities and the Gross Enrolment Rate (GER) was not

more than 7% in higher education. Expenditure on higher education touched all time low in 8th (1997-2002) and 9th (2002-07) five year plans. Hardly 7 to 8 percent was given to higher education which was one fourth in 4th and 5th five year plan.

Sudden and significant change had taken place in the approach of government towards higher education.

“It has probably been realised that a government that aims to transform India into an east Asian tiger or a developed country can ill-afford to ignore higher education. Economic miracles cannot be created without higher education. A “knowledge society” can not be built without it and a revolution in Information Technology (IT) cannot be sustained without strengthening institutions of higher learning. Poor-quality education and inadequate higher education systems are features of impoverished, developing countries. Perhaps it is also realised that sustaining the recently realized high rates of economic growth in a globalised world requires a strong and well-distributed higher education system. It was acknowledged that the enrolment ratio in higher education had to be raised to at least 15% by 2012 from around 10% in the middle of the last decade to realise the objective of inclusive growth. In addition to, it pushed up to about 30% in the decade after that. The gross enrolment ratio reached 15% by 2009-10, according to the Ministry of Human Resource Development’s Statistics on Higher and Technical Education (2009-10). International evidence shows that economically advanced countries with universalized secondary education that provide a fair degree of access to higher education have a gross enrolment ratio ranging from 40% to 90%. The converse is also true. No country with a low enrolment ratio of 10% to 15% can become an advanced country – economically, politically or socially. A 30% to 40% enrolment ratio in higher education

seems to be the critical threshold level for a country such as India to become an advanced nation.” (Tilak:2012)

Hence, government adopted certain measures for the expansion, upgradation and regulation of higher and technical education. Some of the broad measures are as follows:

- a) A ‘National Knowledge Commission’ (NKC) was set up under the chairmanship of Sam Pitroda in 2005. The Commission proposed to create 1500 universities.
- b) Allocation to higher education was scaled up in 11th Five Year Plan (2007-12), described as ‘education plan’.

“As many as 30 new central universities were to be set up, of which 15 have been opened in the last two to three years. At the commencement of the Eleventh Plan, only 20 such universities existed. Plans for expansion also included setting up six new Indian Institutes of Management, seven Indian Institutes of Technology, 20 National Institutes of Technology, four Indian Institutes of Information Technology, nearly 2,000 colleges of engineering and technology, 1,300 polytechnics, 400 undergraduate colleges and many other institutions. Recruitment of faculty, which had lagged for nearly a decade and a half in several states, began to take place again. The University Grants Commission (UGC) formulated new scholarship schemes to promote research and to improve the access of the weaker sections to it. The student loan scheme, which was restructured in the early 1990s, was further reformed with liberalised conditions and a subsidy on interest for students belonging to lower social strata. The UGC also initiated measures to provide special funds to second-tier and third-tier institutions to improve their infrastructure. In addition, the government began considering setting up 14 world class or “innovation universities.” (ibid: 2012)

c) 'National Commission on Higher Education and Research' was proposed to be set up in place of UGC, all India technical education, national council on teachers education in order to govern higher education in fairly effective way.

d) Privatization' not only of higher/technical but also of elementary and secondary education has been promoted for the last two decades of 20th century. It is intensified during the last decade. Government considers 'privatization of education' inevitable to mobilize resources for the expansion and quality improvement of education. Furthermore it is argued that the implementation of 'RTE' Act requires huge resources, it is difficult for the government to fund expansion of higher/technical education. The mid year review of 11th Five Year Plan (2010-11) and the approach paper to 12th Five Year Plan underscore the need of scaling up 'Public-Private Partnership (PPP) in education. Consequently rules have been relaxed and various concessions are given or promised to extend to facilitate the entry of both foreign and Indian private educational providers. Some of the major concessions to private players are as follows: land on concessional rate, exemption in taxes, reimbursement of fee of students belonging to marginalized sections of society i.e. Scheduled Castes(SC), Scheduled Tribes STs) etc., grants for research, seminars, foreign visits and so on. It is also proposed by the UGC to accord 12B status to private universities so they may be provided even salaries of teachers and maintenance grants. As a result there is a mushrooming growth of private educational institutions in recent years. Many private or Deemed to Be Universities, colleges of professional and technical education and schools are opened in the last decade. And their numbers are growing day by day.

"Today, according to the Annual Report of the Ministry of Human Resource Development (2010-11), there are nearly

600 universities, including a few university-level institutions, and 32,000 colleges in the country compared to about 250 universities and 10,000 colleges in 2000. Students number nearly 17 million, excluding 3 million additional students enrolled in open education system. Much of the expansion that has taken place in the education sector after the introduction of neo-liberal economic policies in the 1990s has been in the private sector. Interestingly, the approach paper (of 12th Plan) recognizes the huge share of the private sector in higher education. There are today 73 private universities and nearly 100 private institutions deemed to be universities, compared to almost nil about a decade ago. More than half the colleges are in the private sector. As the approach paper notes, private higher education accounts for about four-fifth of enrolment in professional education and one-third overall.” (Tilak, 2012).

Besides, a Bill for the entry of foreign universities has already been tabled in the Parliament which has still not been passed. In the given circumstances it can safely be assumed that the Bill will likely get through in near future. Many foreign universities are quite active in the country. They, in collaboration with Indian educational institutions, are providing education. ‘Global Education Fair’ are frequently organized to attract students with the support of private educational institutions and companies of both India and abroad.

These changes evoked serious response of scholars and educationists. They debated and discussed at length the nature of changes and their consequences for society at large as well as future development of education in the country. While the expansion of both elementary and higher/technical education in public sector is appreciated, progressive withdrawal of the state from educational sector leading to increasing participation of private education providers has widely been criticized. It is argued that privatization of

education goes against the tenets of Indian constitution which enjoined the state to mobilize resources for providing education of all type to its citizens. It is 'commercialization' or 're-colonization' of education. (Panikar:2011). It is a "system based on a neo-liberal market philosophy." (Tilak:2012). Following the principle of free marketing, private educational institutions aim at earning unlimited profit. Consequently they charge exorbitant fee of various types, raising the cost of education beyond the reach of common people. Therefore, the first casualty of private education is 'equity' and 'social justice'. Secondly, they, more often than not, violate government regulations and indulge in unfair practices and corruption of various kinds. Thirdly, they are being flourished at the cost of public institutions as they are provided various concessions and grants by the government. Fourthly, privatization of education prevents harnessing of vast human resources of the country as the poor and deserving students are deprived of education due to its cost being beyond their reach.

Consequences for Muslims:

One may certainly visualize highly grave and catastrophic consequences of increasing commercialization of education for Muslims, largest minority group constituting 15% population of the country, as they are economically and educationally most backward community, having lowest representation in public employment and decision making bodies. their educational exclusion will be speeded up in near future, defeating the goal of 'inclusive education', as the endemic poverty among them further reduce their chance of having access to both public and private quality education institutions due to the reasons that the former have increased/or proposed to increase fee and the later charge exorbitant fee. Apparently such arguments seem true. However, it is difficult to verify these arguments without

comparative data about educational status of Muslims before and after the introduction of globalised education policies. And we do not have such data. The data provided by 'Prime Minister's High Level Committee on Muslims'(PHLC), constituted under the chairmanship of Justice Rajender Sachar in 2005 are largely based on Census of India 2001, National Sample Survey Organization(NSSO)and other departments and institutions of the central and state governments, revealing largely the educational status of Muslims until the end of 20th century. Thus we do not have a full and clear view of the impact of globalised education policies on Muslims as the impact of any policy change becomes evident at least within a period of a decade. Since changes in higher/technical education policies were intensified from 2007, their impact may well be seen in the next few years. Hence there is urgent need to take up projects of intensified research and large scale surveys for exploring the consequences of present day educational policies on Muslims.

Muslims have consistently been lagging behind other communities in the field of education since independence. They were found most educationally the most backward community of the country by 'High Level Committee' (HLC), constituted by ministry of Home Affairs, Govt. of India under the chairmanship of Dr. Gopal Singh to enquire into the condition of minorities, SC's and ST's in early 1980. In 1993 ministry of HRD, Govt. of India declared them 'National Educationally Backward Community'. Since no substantial policy was formulated for their educational uplift, they further slid back other communities in the next two decades. Therefore, the PHLC finds that:

Muslims are at a double disadvantage with low levels of education combined with low quality education; their deprivation increases manifold as the level of education rises.

- Condition of Muslims in school education is miserable as they have lowest rate of enrolment in schools (78%), and lowest mean year of schooling (MYS) (3.4 years) and highest rate of drop-outs (25%) among all Socio-Religious Communities (SRCs). Only 17% Muslims in the age group of 17 and above against 26% national average have completed matriculation. Indeed the miserable performance of Muslims at matriculation level is a major hurdle for their entry into higher education. Their Graduate Attainment Rate (GAR) is less than 4% against the national average of 7%. Rate of technical education is almost negligent among them. Their representation in premier educational institutions is abysmally low i.e. 1.3% in all IIMs, 1.7% in B.Sc. Engineering courses of IITs and 4% in top medical colleges.
- Educational conditions of Muslims is pathetic and gaps between them and other SRCs widens in all urban areas and states like Assam, Bihar, Jharkhand, Uttar Pradesh and West Bengal where they have substantial demographic concentration.
- Socio-economic and educational conditions of SCs/STs was considered inferior to that of Muslims at the time of independence. Now the situation has reversed, as SCs/STs have overtaken Muslims in several contexts. The gap between Muslims and SCs has enlarged especially since 1980. The GAR of SCs and STs is higher than that of Muslims. The changes in educational patterns of Muslims and SCs/STs suggest the importance of reservation facility for improving the educational condition of marginalised community.(govt. of India: 2006)

What have been the factors for miserable educational condition of Muslims? PHLC did not enlist these factors

explicitly. However, some of the major factors may be identified which are given below.

- I) As the expansion of both elementary and higher/technical education was limited, poor and educationally backward communities like Muslims did not have the opportunity of access to education. Or in other words under-served groups were deprived of educational opportunity.
- II) Limited educational opportunities were further constricted for Muslims as the government, generally, did not create educational institutions in Muslim concentration areas and localities. They were provided more police stations than schools. Community institutions like *madaris*, schools and colleges/universities largely remained the source of education for Muslims. As the community institutions were few and their quality of education was poor, Muslims were deprived of, first, education and secondly, quality education.
- III) Public education institutions, though open to all in principle, remained practically inaccessible to Muslims for broadly two reasons. A) Reservation facility to SCs and STs from 1950s and to OBCs from 2006 in the admissions to schools in general and higher education in particular made it difficult for Muslims to enter into public institutions, mainly, in premier and quality education institutions. Although some groups of Muslims were entitled for reservation under the category of STs and OBCs, they did not get the benefit of reservation policy on account of their extremely subordinate position in the spheres of economy, polity and education. Wherever the share of Muslims in admissions to public institutions was earmarked like in Kerala and Karnataka, they fairly did well in literacy and

education. Government of India, through an executive order, reserved 4.5% admissions in central government educational institutions to groups of minorities belonging to OBC category in December 2011 which was halted by the Supreme Court on some technical grounds, not fulfilled by the government. B) as half of the admissions were reserved for the three above mentioned categories, it became difficult for Muslims to compete in remaining half of the admissions open to all. Hence representation of Muslims in public institutions of quality school and higher/technical education remained abysmally low.

- IV) Fear of discrimination (perceived or real) among Muslims prevented many of them to apply for admissions in public institutions.
- V) Education was also not thought by many Muslims as productive investment as they believed rampant discrimination against them in public employment.

Hence the benefit of welfare education policies did not percolate down to the Muslims and they still remained largely out of the net of public institutions, especially the premier institutions.

Opportunities

Educational opportunities for Muslims as a sequel to globalised education policies are not seen here in relation to other communities. They are visualized in comparative framework i.e. in comparison to their chance of access to education before and after the introduction of these policies. Furthermore educational opportunities for Muslims are not conceptualized in uniform way for these opportunities are not equally available to all Muslims. Nor they are accessible to all

of them. Regional variations are conspicuous in the availability of these opportunities. And within a region group and class divisions among Muslims are significant in their access to educational opportunities. While controlling these variations, enhanced educational opportunities can be seen in the access to and creation of educational institutions.

- a) ***Access to elementary education:*** Elementary education, as shown above, could not be universalized until the end of 20th century. And number of Muslim children devoid of elementary education were more than children of any other community as per the data of Indian census and organizational surveys. Possibilities of UEE have increased with the launch of SSA in 2001 and RTE Act of 2009. Now it can be hoped that Muslim concentration habitation, hitherto remained without school, will be provided a school of elementary education. Consequently their access to school education will comparatively be increased. However, government elementary education schools provide education of worst quality as they are highly unregulated as per many of the surveys. And government schools of quality education like Navodhya Viddalayas and Kendriya Viddalayas are inaccessible to Muslims due to policy of reservation and admissions through competition. Therefore, private schools, mushrooming on account of privatization of education, are the main source of school education to Muslims though to the limited number of them.

- b) ***Access to Higher and Technical education:*** Public institutions of higher and technical education have still remained highly inaccessible to Muslims due to factors such as low level of school education in general and lowest level of quality school education in particular, admission through competition and policy of

reservation. Higher education is generally provided to Muslims by their community managed institutions like Aligarh Muslim University(A.M.U.), Jamia Millia Islamia and various colleges as well as by public institutions of low quality education. A very few Muslim students can be spotted in premier education institutions of both public and private sectors. It was highly difficult for Muslims, even those of well off families, to acquire professional and technical education like engineering, medical, business management etc. before the opening of education to private players. Indeed, privatization of professional education have increased the prospects for Muslims to become engineers, doctors, management graduates, software engineers, media persons and so on. Since market does not discriminate on the basis of social affiliations, Muslim students of economically rising but educationally poor families are, generally, seen to be enrolling in private institutions of low and medium quality professional and technical education. Job opportunities in private sector of India and abroad is also the catalyst for Muslims to acquire professional education from private institutions. Although the quantity of Muslim students, having affordability to private education and jobs in private sector, is abysmally low, it is significant for the creation of professional middle class among Muslims which in the long run will be catalyst for socio-economic changes. Depletion of middle class as a sequel to the Partition has been the major cause of many ills of Muslims in post-independence India. And the creation of this class through public sector appears to be a mirage for Muslims in the present day politics of the country. It is the private sector through which a small class of Muslim professionals begins to be emerging and is likely to increase in future.

Case Study:

Since large scale data are not available to substantiate the above arguments, we rely on the data from a Muslim concentration town of northern Uttar Pradesh(UP). The data is collected through participant observation.

This is the town, called Baheri, of District Bareilly, located on Bareilly-Nanital road, running from south to north. It is a head quarter town of a *tehsil* of same name, having the administrative status of Municipal Board and a population of about 75000. Muslims constitute two third population of the town and they are economically and politically dominant community. However, they lagged behind other community in education and employment until the end of 20th century. A very few of them succeeded in acquiring higher education and hardly fifteen to twenty persons were in government jobs. Such a situation was the result of both lack of educational heritage among them and limited educational opportunities in the town. The town had a Degree College, provided graduate level education only in limited subjects of humanities and social sciences. A Senior Secondary School, called Inter College, affiliated to UP Board of education, is the oldest. Besides, there were one secondary and another senior secondary schools for girls and few schools for elementary education. As these public institutions were highly unregulated, their quality of education was worst.

Scenario of school education in the town began to change from 1990 not because of government efforts but due to privatization of education. Four senior secondary English medium private schools were established during the last two decades. As the quality of education is comparatively better than government schools, some of the students of these schools have succeeded in acquiring admissions in institutions of higher and technical education outside the town. We are

being informed that there are at least 150 Muslim students, pursuing education of engineering, management, medicine and other professional courses, mostly from private institutions. Some of them have already completed their education and are employed in private sector. A few of them have gone abroad, Middle East and western countries, for employment.

Hence privatization of economy and education have increased the prospects for Muslims to enter into white collar occupations.

Creation of Institutions

Contrary to popular perceptions Muslims endeavoured hard to promote modern education by creating institutions. They established a number of institutions of modern education before and after independence despite their marginalized condition. Exact number of their educational institutions are not known as no comprehensive census, embracing all type of educational institutions, is conducted up till now. Yet it can be anticipated that they have succeeded in creating a few universities, hundred of colleges of higher and technical education and thousand of schools in different parts of the country. The community institutions of 20th century and before were largely philanthropic, created through collective efforts. While those sprung up during last two decades are mostly private.

Although Muslim managed private educational institutions of different types and level of education can be seen at many places, they are mostly concentrated in the southern states of the country. for example, Muslims of Kerala succeeded in creating many private self financing institutions of professional education from the beginning of 21st century, the time from which higher and technical education was opened

to private players. Now they have 16 out of 49 engineering colleges, 5 of the 10 Medical Colleges, 10 of the 18 Dental Colleges, 6 out of 18 Pharmacy Colleges and 08 Colleges of Management. The number of Arts and Science colleges of the community under various universities like Kerala, Calicut, M.G. and Kannur have also increased. (Rahiman, 2010: 149) The scenario in other southern states like Kanataka, Tamil Nadu and Andhra Pardesh is almost similar. Muslims of Karnataka had only few schools but no college of higher and technical education until the dawn of independence. The new awakening for modern education erupted in the late 1960s when Dr. Mumtaz Ahmad Khan, a young doctor and a clutch of his allies set up Al-Amin Educational Society in Banglore. Al-Amin Arts and Science and Commerce College was set up in 1971. Since then Al-Amin established a number of schools and colleges of professional education. The trend of opening educational institution picked up due to privatization of education. Muslims today run all most 200 English medium high schools and about a dozen Degree Colleges in Banglore alone. While the number of Muslim high schools in the state may reach upto 800. There are 40 Degree Colleges, 03 Medical Colleges, about 06 Dental Colleges, 11 Engineering Colleges, 05 Institutes of Management, dozen polytechnics and similar number of ITIs is of Muslims. (Siraj, Maqbool, 2010: 121).

North Indian Muslims like those of UP, Bihar, Rajasthan, Madhya Pardesh etc. also created private educational institutions but not as many as their co-religionists of South India. Yet some of their institutions like Jamia Hamdard, New Delhi, Integral University, Lucknow are best known in the country. Recently approved Johar University of Rampur (UP) is likely to grow in future.

The role of Muslim managed private institutions in promoting educational status of the community is contested. It is argued that these institutions are not different from other

private institutions whose ultimate goal is to earn profit and not to serve the community. They charge exorbitant fee which is beyond the reach of common Muslim. Indeed, there is no difference between Muslim and non Muslim private institutions as both are commercial. Secondly, many Muslim private institutions have the status of 'Minority status' whereby they are entitled for some benefits which they do not pass it to the community. Thirdly, a large number of students and teachers in these institutions are of non Muslim communities

And very often the representation of Muslims is abysmal or low. Fourthly, the quality of education of Muslim managed institutions is either worst or not better than the non Muslim institutions.

On the contrary it is argued that trend of acquiring professional education among Muslim students is accelerated due to private institutions of the community. Many Muslim students, mainly girls, do not prefer to enrol themselves in other private institutions due to their perception of insecurity and cultural alienation. Hence, Muslim institutions provide them opportunity to acquire professional education. It is reported from Kerala that number of Muslim students have consistently been increasing since the emergence of Muslim private institutions. In some instances female students outnumbered male students. (see Rahiman, 2010) secondly, it is comparatively easy for Muslim students to get admission in these institutions as some of them, those having the status of minority, reserve half of the admission for minorities. Thirdly, these institutions provide more job opportunities than others to Muslims and therefore, contributing significantly in creating a Muslim middle class.

There are evidences to support and oppose the role of Muslim private institutions of professional education in

raising the educational status of the community. Many private institutions of Muslims have negligible representation of the community whereas others have sizeable representation. However, in the long run, it can be hoped, these institutions may prove significant in generating educational trend among Muslims.

Challenges

Globalizing Indian education poses more challenges than promise of opportunities to Muslims. These challenges emanate from the fact of intense competition for growing educational avenues and cumulative handicaps of Muslims to compete with others at par. Globalization operates in contradictory fashion. While it does not discriminate against anyone on the basis of social affiliations but constricts opportunities for socio-economically disabled persons or group of persons. Intense competition or 'survival of fittest' is the hall mark of globalization. It is true that educational opportunities are expanded since the dawn of globalization, they are virtually closed for marginalized communities. And they are more closed for Muslims because of their endemic economic and educational poverty as well as denial of 'protective discrimination' facility to them, available to other marginalized groups like SCs, STs, and OBCs. As a result a large number of Muslims are unable to access premier educational institutions-schools, colleges and universities- of both public and private sectors.

Though GER of Muslims might have increased in recent years, their majority is enrolled in low quality educational institutions from which most of them acquire degrees but for unemployment. Hence, mere growth in the enrollment of Muslims is sterile as it does not provide them employment. Muslims can not carve out a dignified place for them in globalising world unless they have access to quality education.

The powerlessness of Muslims does not lie in them but in the institutional framework of the government and the community. The Govt. of India has so far paid lip services to the uplift of the largest and most educationally backward minority group. There was no exclusive scheme for the welfare of minorities until the 1980s. and the schemes launched thereafter were nominal in nature. hence, the government provides virtually no protection, either of protective discrimination or of welfare schemes, to Muslims in the world of 'ever quickening rat-race'.

Deprived of government protection and living with meagre means in a state of permanent insecurity to their life and property due to frequently occurring violence against them, the efforts of Muslims in upgrading their educational status by creating institutions are exemplary. Yet the voluntary efforts of the Muslims in the field of education are short of the requirements to compete in the globalised or 'Run Away' world. Muslims have given more attention to the creation of higher and technical education institutions and do little efforts in creating schools of quality education. Indeed, lack of school education in general and quality school education in particular is the major hurdle in the way of Muslims to enter into higher education. secondly, most of their institutions lack basic infrastructural facilities and provide education of low quality.

Thus upgrading the quality and efficiency of existing community institutions and creating new institutions, mainly schools, of global standard may facilitate Muslims to overcome challenges of globalization. However, the community can not come at par with other communities without the protection of the government.

Conclusion

India has adopted welfare oriented education policy or 'National System of Education' just immediately after independence. The policy visualized education as a catalyst for social transformation and economic development and, therefore, enjoined the state to mobilize resources for providing all type of education to its citizens. Promises were made to eradicate or minimize regional, group and gender educational inequalities. Consequently measures of various kinds were delineated to percolate down education to the poorest of poor. However, the benefits of these measures did not flow to Muslims as much as they were available to SCs, STs and other marginalized communities. Public institutions of education, mainly premier institutions, remained inaccessible to Muslims for, neither they had protection of reservation nor had sufficient competence to compete with others. As a result their educational status became from bad to worse.

Conversely globalised education policies appear to enhance educational avenues for Muslims. While RTE increases their prospects for access to elementary education, privatization of education will open the gate for their(though for limited number) entry into professional education. Muslims of economically rising but educationally impoverished families, unable to get admission in public institutions, are attempting hard to acquire school and higher/professional education from private institutions. Job opportunities in private sector of India and abroad also appear to be a catalyst for them to invest in education.

These opportunities are not without challenges, emanating from intense competition for education and inaccessibility of Muslims to premier institutions of both private and public sectors. Their majority is enrolled in low quality educational institutions from which many of them acquire degree for

unemployment. Hence, inaccess to quality education, without which they can not carve out a dignified place for them in global society, is a major challenge for them. Secondly, a sizeable number of Muslim students are enrolled in their community institutions (private and public both) many of which lack basic infrastructural facility and quality education. Thirdly, better school education is not available to them as the community created more institutions of higher/professional education than schools and government and private schools of quality education are virtually inaccessible to them. This is a great hurdle for them to enter into higher education. Above all the great challenge is to enable overwhelming majority of Muslims for having access even to low quality educational institutions of the government.

The challenges can be overcome if the quality of existing community institutions is upgraded, new institutions, mainly schools, of global standard are created, funds are mobilized to finance the education of the poorest of poor and reservation facility is extended to them.

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Overcoming Social Exclusion: Lessons from Kerala Muslims

Muhammed Haris K.T

In many multicultural societies today issues of identity and social exclusion have been posing tough political questions. Since democracy seeks to ensure availability of equal opportunities to all citizens to achieve their desired social status, the questions of equity, inclusion and access to various institutional services, have become a challenge to reckon with. For any truly democratic state, social exclusion of any group will be of a matter of grave concern.

However, it may be underlined that the problem of social exclusion is not linked to any specific factor and hence it should be addressed at various levels or may be looked at from different angles. In some cases, it could even be identified as self-imposed one and in others it is caused by socio-cultural, historical and political factors. For instance, the marginalisation of Muslims in India may largely be attributed to their role in the freedom struggle, partition of the country, migration of the upper and middle class Muslims to Pakistan, and the absence of educated Muslim leaders.

The Sachar Committee report brought the dismal conditions of Muslims in various parts of India in sharp focus. According to the report, bulk of Indian Muslims suffers grave deprivation in social opportunities, because they do not have access to education, employment, health care and other public services. In some sectors they are even more disadvantaged than *Dalits*.¹Forty-three per cent Muslims live below the official poverty line. Muslims are more likely to live in hovels without electricity than *Dalits*. Only 19 per cent Muslims have piped water supply which is 4% less when compared to 23 per cent for the Dalits.

According to NSSO report 2007 in the case of urban men, the literacy rate for Hindus and Muslims was 89% and 77%, respectively. Among women in urban areas, the literacy rate for Hindus and Muslims was 73% and 60%. Among rural females, the illiteracy rate was almost equal among Hindus and Muslims (59%).² Half of Muslim children in rural areas are illiterate. Similarly a third of urban Muslim children are illiterate. One-eighth of Muslim children aged between six and 13 do not attend school.³ The following passage from the Sachar Committee Report sums up the poor condition of Muslims in secondary and higher education sectors:

At the all India level the educational attainment of Muslims worsens in relative terms as one moves from lower to higher levels of school education.⁴

The experience of Kerala Muslims, however, presents a better scenario. There is less or no social exclusion and that the Muslims are overcoming their problems. The purpose of this paper is to discuss the socio-historical factors that kept Muslims in Kerala backward in almost all fields of social life till independence and the role of the state and the community in improving their condition.

Muslims of Kerala

Muslims of Kerala, especially the ones living in Malabar region are an odd lot in unequal India. They are separated from Muslims living in rest of India by geography, history, language and culture. Historians generally agree that till the advent of the Portuguese in 1498, Mappilas, Muslims of Kerala, led a peaceful life on the coast in perfect harmony with the sister-communities; in fact they played a leading role in the trade and commerce of the land both within and outside Kerala.⁵ The arrival of the Portuguese, however,

changed the situation. Hamid Ali observes that “the discovery of the Cape of Good Hope was an evil day for the *Mopblas* ... In the keen struggle for supremacy on the eastern seas the *Mopblas* came out vanquished ... and never since have they regained their wealth and glory.”⁶In fact, the Portuguese did not believe in fair trade; instead they sought to monopolise it. Their encounters with the natives in Kerala, Mappilas in particular, caused the decline of the later as they started losing their socio-economic status that they had enjoyed since long.

The Muslim condition did not improve even after the Portuguese were driven out by the British. The British occupation of the Malabar in 1792 rather worsened the situation. Muslims had frequent confrontation with the British forces on the one hand and had to face the repressive measures taken by the Hindu *janmis* on the other. The Hindu Janmis, supported by the British, were very harsh towards the Muslim peasants. In the 19th century anti British riots erupted on account of their repressive policies. The British passed some very repressive acts in 1852 and 1854 which almost suffocated the Muslims of Kerala.

The government had appointed in 1852 a special commissioner, T.L. Strange, to report on the causes of the continuous Mappila rebellions. He was specifically asked “to consider whether with reference to the position of Hindus and Moplals in their relation of landlord and tenant, mortgager and mortgagee, any measure seemed to be necessary for defining the landed terms of the country and placing them on a better footing”.⁷ But the report was totally against the truth and Strange recommended government to impose new acts to suppress Muslims. The words of K.N. Panikkar are worth mentioning here:

Strange discountenanced the agrarian
discontent argument and attributed the

fanaticism of the Mappilas as the primary cause of the “Outrages”. The Moplah Outrages Act” and “Moplah Warknives Act” of 1855 which sanctioned mass scale fines and confiscation of property of the rebels were the result of the commission’s recommendations.⁸

The discontentment of Mappilas resulted in a series of violent outbreaks throughout the 19th century. The Government turned a deaf ear to the constant complaints of the Mappila tenants, because of which their protest persisted. The agrarian tension steadily increased which finally triggered off the rebellion of 1921. This rebellion destroyed all developmental activities of Muslims in educational economic and political sectors.

The deep hatred towards the British rulers who wanted to annihilate the Muslims, their culture and religion created a deep-rooted aversion in the Muslim minds against anything Western including the English language, Western education and science. Miller has rightly observed:

It had blocked their progress, retarded the development of the community economically and created a public image and private mentality of backwardness.⁹

The literacy rate among Muslims of Malabar district was a mere 5 per cent in 1920s.¹⁰ There were 1,497 elementary schools for Muslims in British-ruled ‘Malabar’ by 1931, with a total of 104,000 students out of which only 4% were girls. The opportunities for education of Muslims in Travancore and Cochin were far more better. Moreover education came early in these regions as a result of the enlightened policies of the rulers and the rumblings of revolutionary social change already in evidence there by then.¹¹

Muslims were a socially excluded class in all manners at the time of independence.¹² The social exclusion of Muslims in Malappuram was on account of the results of continuous rebellions against the British exploitation and also due to their hatred for all things which had Western connection. In such a situation the Muslim leadership of Kerala demanded the government to form a new district to empower the backward Muslim community. The Nambuthiripad government was compelled to concede the demand of Kerala Muslims led mainly by the Muslim League and in 1969 Malappuram district was formed.¹³ Out of total population of the district 67 percent are Muslims.

By 1960s, newly educated Muslim political leaders like C.H. Muhammed Koya, began to remark openly that negligence towards the secular education is responsible for Muslim backwardness compared with other communities and that it had blocked their progress, retarded the community economically, and created a negative public image about a mentality of backwardness. He, therefore, advocated and urged Muslims to take to modern education in the beginning. As a result by 1972, the progressive environment in the State had found almost all eligible Muslim children being admitted in elementary schools.

Factors behind the Development

People of Malappuram realized the merits of educational empowerment and students rushed to and joined schools and colleges in droves. This was due to the influence of combined efforts taken by religious and political leadership that encouraged modern education along with religious education. The coming together of the religious and political leaders and their joint realization of the importance of education in development activities are thus the key factors responsible for the success of Muslims in Malappuram.

The Muslim leaders rightly felt and realized that a backward community can't develop. They also realized that along with education it was also important to organize politically. With the formation of a political party, they also gained their democratic rights. Another important factor was the religious leaders who guided the community in the right direction of acquiring both religious and modern education. While the political leaders worked for opening schools and colleges the Ulama started a Madrasa movement immediately after independence. Their religious leadership not only encouraged religious education but they also promoted modern education and language studies through their institutions.

It is notable that the major political party of the region, Indian Union Muslim League, became active to improve the condition of Malappuram after the formation of the district. The founders of the Muslim League stood and struggled for the development of the Muslim community. The Muslim League ministers put great emphasis on the empowerment of the community especially in the educational sector. At the same time the effective campaigns by the Islamic movements like *Samastha Kerala Jamiyat-ul- Ulama* and others contributed to the reawakening of the Muslim community. Under these organizations enormous educational institutions came in to existence which taught a combined curriculum of Islamic and secular knowledge. When the leadership became united and active, the Muslim community reaped rich dividends under their guidance.

Economic condition of a community also plays a role in the empowerment of a community, especially when private schools and colleges are required to play a role in the education sector. Better economic condition of Muslims in Kerala has played a role in empowering them educationally. The remittance of Gulf migrants played a key role in opening schools and providing education. It is estimated that

between 55 to 60 per cent of the district's GDP comes from Gulf remittance as every family has at least one member working abroad.¹⁴ Among the 14 districts in the State, Malappuram receives the largest amount of remittance. Out of 49695 *crores* remittance Malappuram alone receives 9040 *crores*.¹⁵ Although the Gulf migration started in early 1970s, Muslims began to enjoy its benefits especially when educational institutions started to come up in 1990s.

The changed attitude of Muslim community was considered as a positive sign for the government and also for some the NGOs to act quickly to encourage education and facilitate education among Muslims. Consequently, there was a radical change in the educational development of Malappuram district. Today the district has a chain of well established educational institutions. Malappuram has the highest number of Muslim-managed institutions in India.

Due to the hard works and attempts of religious as well as political leaders Malappuram District has the largest number of schools (1472) in the State followed by *Kannur* (1293) and *Kozhikode* (1237).¹⁶ Malappuram District has also the largest number of government (546) and unaided schools (145) in the State. In most of the schools the number of girls is almost equal to boys. Malappuram is the first district in India that arranged the service of EDUSAT (Educational Satellite) connection in all government schools. EDUSAT is a communications satellite which was launched on 20 September 2004 by the Indian Space Research Organization. EDUSAT is the first Indian satellite built exclusively to serve the educational sector. It is mainly intended to meet the demand for an interactive satellite-based distance education system for the country.

The success rate of students of Malappuram participating in S.S.L.C and higher secondary examinations is very high. In

fact, the district tops the list in Kerala. The district continued its achievement in various competitive examinations demonstrating that new generations of Malappuram Muslims are ready to play a leading role. While the pass percentage of S.S.L.C. examination in Malappuram district in the 1990s was below 30 per cent, in 2007 it reached 76.62 per cent and in 2013 it touched the 91 percent mark.¹⁷ By all these developments, Muslim community became as one of the fast growing communities of India in the educational sector. According to a survey conducted among the Muslims of the district, in the age group of 15-17 years 93.24 % are going to higher secondary education.

It is a matter of pride that in Malappuram alone there are seven universities or regional centres of well known universities but with all facilities of a university. These institutions are playing a vital role in empowering the people, Hindus and Muslims alike educationally.

Educational development resulted in awakening of Muslims in other fields. One of the most noted achievements of Malappuram is the control on the population growth. It was a rare achievement of the Muslims in Malappuram that has registered a two-digit fall in the decadal rate of population growth.¹⁸ This indicates that fundamental changes in social attitudes are taking place in this backward and conservative region, one of the very few districts in the country where Muslims are in a majority. This has significant political implication too, in the backdrop of a sustained xenophobic campaign by the *Hindutva* forces that Muslims multiply fast to outnumber the Hindus. Not many districts in the country may have registered such a steep decline. However, Malappuram is still the most populous district in the State and it still has the highest rate of growth (17.22 per cent) among all the districts.

Women empowerment is another noted achievement of Malappuram. All this happened in a short span of time. The Muslim League, along with other groups, has played a big role in this regard. The party launched its women's wing under the leadership of women leaders. One-fourth of 100 village *panchayats* and two of the five municipalities in Malappuram district are headed by Muslim women.¹⁹

Malappuram has become India's first e-Literate district as a result of the *Akshaya* Project, 'Internet to the Masses,' aimed at providing comprehensive training in the use of the Net to a lakh people by the Kerala government. *Akshaya* project was launched in Malappuram by President *A.P.J. Abdul Kalam* on November 28, 2002.²⁰ As a part of the scheme the government launched the e-Pay and e-Business services offered at the e-*Kendras*.²¹ The highlight of the exhibition was the launch of the *Akshaya* Rural Internet Banking and Financial Services through the SBI online e-Payment gateway. This gateway will facilitate all forms of e-Commerce, such as rural business, financial products, insurance and online ticketing among others. According to Kerala Government sources, every household in Malappuram would also be able to pay their utility bills, make revenue remittances and civil supplies transactions, as well as avail a host of other facilities, by using these e-*Kendras*.²² This is the first time in the country that rural banking and financial services have been made available to the rural population through an e-Governance project.

The presence of voluntary service organizations is another important factor behind the empowerment of Muslims in Malappuram. The economic achievements and farsighted leadership gave birth to enormous trusts and organizations under the platform of religious or political platforms. These fraternities have worked in many sectors like poverty alleviation, spreading education, coaching and guidance,

counselling, health care, providing shelter and construction and maintenance of religious and other institutions.

The relevance of such organizations is very vital in a country like India where projects and economic assistance programmes are planned and implemented badly. The voluntary organizations collected money for their work from the community members without wasting time and waiting for the government to implement projects. They tried to construct and maintain educational and religious institutions like *madrassas* and *masjids* throughout the district and used them for overall development of the community.

These organizations implemented planned projects for the poverty eradication which can serve as a model for the entire world. 'Baithu Rabma' housing project and 'C.H. Centre' health care project were worth mentioning in this regard. The relief activities of crores in the month of *Ramzan* by the organizations are appreciated by the government authorities also.

Assistance from the Government is another factor behind the progress of the Muslim community. Muslims influenced the policies of all Governments because they attained a crucial role in administrative bodies. Their leaders always influenced Governments to not implement any moves against the Muslim community and at the same time they tried to bring useful government projects to the district.

Decentralisation of power involving the centre, the state government and local bodies also played a crucial role in the empowerment of Malappuram Muslims. In Kerala, local governing bodies played a prominent role in administration. Muslims have set up a political party and contested elections. Automatically they became the leading group in *panchayath*, block and district *panchayath* levels of governing bodies. When

they got power they designed and implemented useful projects for their own improvement. Projects which were implemented by Malappuram District Panchayath have helped the Muslim community a lot. *Vijayabheri* project, which was intended to improve standard in education, and *Akshaya* project, which was implemented to utilize the opportunities in the field of information technology, were some examples of such projects.

For a long period Malappuram was one of the most backward districts, indeed one of the 90 "problematic" districts in India. Now it is one of the fastest developing districts. It was the effort of the local bodies and social organisations that helped Malappuram to achieve a significant change in the social scenario. This radical shift was visible in all walks of life. The local government institutions in the district were able to introduce a series of development activities.

While improvement in educational and economic sector provided the background for modernisation of Muslim community in Malappuram, the most noted factor was the self assessment of the people, especially the younger generation, which led to a sea change in the attitude of the society. Social exclusion of Muslims in Malappuram was effectively challenged when the community made all round progress, especially in education and women empowerment. The change in the attitude of the Muslim community resulted in the inclusive policy of the local and state governments.

Conclusion

The achievements of Muslims in Kerala in the field of education, political representation and women empowerment suggest that the problems of marginalisation and social exclusion could be overcome by any section of the society in a democratic system provided the group takes more

responsibility towards its empowerment. Without the group in the question developing a positive approach towards issues of development and political participation, it would be difficult to attain socio-cultural capital which is necessary for coming out of social exclusion.

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The Education of Muslims in Malabar, Kerala

Anwar Sadath

Introduction

Education should be considered as a continuous process which starts right from the birth of a child. It is rather a process of socialization wherein each individual learns through understanding and experience how to adapt to the society of which he/she is a part. Education is something which, even though attained by an individual, whose benefits are shared by the whole society and her the future generations. The Sachar Committee Report has rightly pointed out:

Education is a broad process that enables a person to adopt a rational and questioning attitude and facilitate the recognition of new opportunities. Education also involves retention and enhancement of these capabilities over a lifetime and the ability to transmit education to the next generation in order to generate the considerable spill over effects documented by social scientists. Therefore, a person must be enrolled into a system of education and remain there for a minimum period in order to derive such benefits.¹

As we go through the state of education in India we find that due to a lot of reasons the average quality of education in the school and college level programmes is substantially below the satisfactory standards which proves that these educational programmes may not be enhancing the productivity and

employability of the pupils as has been expected in the original stipulations about these programmes and due to this, they may not be empowering the future citizens at the expected levels.² This again becomes worse when we consider the case of minorities of the country like Muslims and Dalits and also females. Thus their contribution, on account of being denied education, to the nation building process is always less. Thus to have an empowered society in all its possibilities, as has been envisaged by our national leaders, economists, social and political scientists, politicians, religious leaders and even each one of the citizen, it is important to start from the basics of education.

In the developmental process there are many factors to be discussed and among them empowerment is the most important one. Weaker sections of the society including women and minorities have to be uplifted through empowerment; then only the idea of development would exist. Akhtar Siddiqui opines that “empowerment is not merely an innovative idea of the modern civilization, it is rather an important goal of the democratic societies which always demands a long drawn multipronged initiative to be taken by the state and the people.”³ He further elaborates that empowerment would be achieved only by eradicating the basic barriers which exist in our society like the social, political and economic barriers which are related to each other. This is very much true in the case of Muslims of Kerala. Thus the paper here would analyse how the various indicators of development like education, social and economic status are interrelated and how education of Muslims in Kerala is completely dependent on the socio-economic status of the community.

Kerala Muslims' Education: The Reality

Muslims in Kerala have a rich history as they have inhabited Kerala since the early days of Islam itself. Because of their constant trade with the Arabs, they often occupied the coastal areas. Thus a lot of them chose to settle down in the coastal regions of North Kerala, the Malabar. They married local women and settled down there. Due to its accessibility through sea, Malabar was one of the favourite destinations of travellers, social scientists and various colonial powers.⁴ The pre-independent Kerala was divided into three provinces namely Malabar in the north, Cochin in the middle and Travancore in the south. Due to the various treaties with the British, the states of Cochin and Travancore were able to continue their power in their respective states. But due to the Treaty of Seringapatam, the control over Malabar was acquired by the English East India Company from Tipu Sultan. Thus Malabar didn't have any control on their issues unlike Cochin and Travancore.

Thus Malabar was used by the English as a hub of various resources for their own benefits and they exploited the area in every way possible. The people of Malabar and their welfare were never in the agenda of the rulers. Thus the region didn't have a life of its own and there was no hope for a prosperous future. Fed up with their state of life which was in the hands of English and also the cruel landlords, there were a lot of big and small resistances from the natives. These sometimes became out of control and resulted in major outbreaks, like the one in 1921.⁵ The region was also isolated in that they were unable to receive the benefits of a lot of social reform movements which happened in the last phase of nineteenth century and the early twentieth century. Thus they lagged behind the other provinces of Kerala in the social and educational realms.

The educational realizations of Kerala Muslims have been determined by a lot of factors like the historical baggage, the socio-economic conditions and the regional discrimination shown by the various governments. Since in the present context, the government policies are having a greater impact on the depth and pace of development we cannot neglect the influence of other external factors on the educational achievements.

Factors Influencing the Educational Prospects of Muslims in Kerala

The National Policy on Education, 1986 has pointed out that, “to promote equality, it will be necessary to provide for equal opportunity to all not only in access, but also in the conditions for success.”⁶ If we try to understand the above by taking education as an example we can see that an equal opportunity in the access to education is not only the step to be taken to empower an individual or a community, rather a viable environment in which the access to education could be fully utilized should firstly be provided. This clearly tells us the importance of one’s social and economic position in having a better access to the educational opportunities which are available to them. Thus the importance of where an individual is born has to be understood to have an idea about the nature and quality of education each individual has acquired.

Muslims in Kerala have been historically categorized as a ‘socially and educationally backward class’ by various historians.⁷ This social disadvantage was seen as a result of the long years of colonial rule combined with their reluctance to engage in the modern education. Unlike the Christians, Nairs and upper caste Brahmins, the Ezhavas and Muslims have faced a lot of ups and downs in their history. The Ezhavas were subjected to the caste oppression whereas the

Muslims were oppressed by the colonial rule. Moreover the Muslim clergy discouraged to acquire modern education and promoted religious education. Malayalam and Sanskrit were seen as the languages of upper caste and this also prevented Muslims from taking part in various indigenous schools. This confined the Muslim community or alienated it from the mainstream.⁸

The Christians were involved in the educational activities of the community at a very early time with the efforts put forward by the different missionary groups. Protestants, Catholics and the Basel Mission started a lot many schools in Malabar. Since the colonial rulers were never against the Christian missionaries, they got a favourable environment to propagate their activities. Whereas the Nairs, who belonged to the upper caste, were proficient in the vernacular language. Since they were the assistants in the administration, for the British in the Malabar region and for the local rulers in Travancore, they had all the opportunities to have access to education.

However, only after the commission report which came on the Malabar Rebellion of 1921, did British understand that the lack of modern education was the reason for the violent reaction of Muslims. Thus they started various steps, including special schools for the Mappilas, to promote education among the community. The reform movements which happened among the Muslims were also late compared to other communities. This also made Muslims' exposure to the modern education late compared to other communities. This lagging behind other communities has been continuing till date as Muslims were never able to accelerate themselves to compete with other communities and the gap still persists. This 'historic lagging behind' has cost the community a lot which could be seen as one of the main cause of their educational backwardness.

We have seen how the historical factors have influenced the educational achievements of Muslims in Kerala. Along with this, we can also see that there certain social and economic disadvantages the Muslims have undergone for a long time. There are certain prerequisites that condemn for an individual to be socially disadvantaged. Binod Kumar Sahu writes:

The socially disadvantaged child is he who comes from economically and socially lower strata of society. A socially disadvantaged child is generally under-nourished, and his basic economic needs are not properly fulfilled. The parents may find it difficult to purchase the school books and may also be unable to pay the tuition fees. They have no communication skills for which their social interaction is limited. They have low level of curiosity, low attention span, etc. They have no command over the languages. Their parents cannot provide suitable guidance and educational facilities. Therefore their progress and achievements remain staggered.⁹

If we place the Muslim child in the above definition, we can see that he/she fits very much into it. They often fail to meet their economic needs and this affects their education as often their parents are not in a financial condition to support their education. Even though there has been a drastic change in the economic conditions of majority of Muslims in Kerala, thanks to the Gulf boom, there are still a lot of socially disadvantaged Muslim children who are finding it difficult to be part of the mainstream. One of the important deficits seen among the Muslim students in Kerala is their very poor level of communication skills and language mastery.¹⁰ Since most of the Muslims in Kerala are having their own regional variations and accents of Malayalam, their exposure to other

languages like English is often not happening. This poor linguistic input combined with the less chance of good interactions halt the development of language learning process.¹¹ The poor language skills have often cost the Muslim students dearly in Kerala even after attaining a good level of education and have always put them in the backseat when it comes to situations like a job interview, a group discussion or a debate.

The general belief among the Muslims in Kerala has been that the objective of being educated is always related to getting a job. This has often resulted in devaluing the purpose of education. Since earning one's daily bread and butter is the ultimate aim in one's life education should be also seen as a means to get a better job. Thus education is never a must for earning one's livelihood if one has a better option other than getting educated. Some of the responses from a survey conducted by Prof. U. Mohammed on the reasons of Muslims being idle and unaware about the importance of education invite us to have a serious introspection as well as a look into the issues which have an impact on the education of Muslims in Kerala. Education and relating it to job prospects was seen as an important reason for Muslims being less active in the field of education. Other reasons like parents being illiterate and difficulty in meeting the expenditure for education are very common issues among Muslims. Since religious scholars have an influential role in the day to day lives of Muslims, lack of interest from their part has also resulted in a less interest in modern education. Since Muslims in Malabar are generally into various businesses education is seen as a less viable source of earning or not a must for earning livelihood. One of the serious issues which were evolved out of the responses was the impact of Gulf boom on the attitudes of Muslim youth towards education.¹²

Impact of Caste and Occupation on the Educational Aspects of Muslims

Caste and occupation has a direct relationship in India. For long caste has defined the occupation of each individual. Since caste is a closed group it was impossible to have mobility and pursue a job out of one's caste affiliation. The trend was almost the same in Kerala as well. Those who belonged to the upper castes had a better chance of getting jobs. The situation in Kerala during the early twentieth century was clear from the census data available from that time. Accordingly:

The Census data of the mid twentieth century shows that, in Kerala, Nairs and Brahmins were the landlords and were the administrators in the government and also the educational domain. Some of them were farmers. Christians, along with agriculture, were involved in trade, transport and industries. Ezhavas and other low caste Hindus were engaged in activities like coir manufacturing and some were peasants. Whereas the Muslims of Malabar were tenants, coolie labourers and small scale traders.¹³

This report gives us an image of the social life and position of Muslims in the Kerala society during the early and mid twentieth century. The low position in the status hierarchy has often resulted in Muslims from not entering the vicinities of educational opportunities. Along with this, the nepotism which was very much prevalent among the administrative class prevented the Muslims from entering into any higher administrative positions. It was a fact that these positions demanded certain educational qualifications which Muslims

hardly met, but years after attaining those qualifications Muslims were never given a chance to be part of the administrative process. The upper caste Hindus and Christians comprised more than 82 per cent of the total government jobs.

Kerala boasts of the first attempt in religion based reservation in India. The communal reservation which was started in 1952, promised 45 per cent reservation out of which 35 per cent was allotted for OBC's including Muslims. After the formation of the state, the Kerala State and Subordinate Services Rules of 1958 was issued under Article 309 of the Constitution of India and the reservation for OBCs was increased to 40 per cent. A sub-quota for the Muslims was introduced within the category of OBC which gave 10 per cent reservation to Muslims¹⁴. The reservation has increased to 12 per cent for Muslims and in Kerala all Muslims are included in the category of OBC without taking into regard their social and economic status.¹⁵

We have earlier discussed the three important the aspects Sachar Committee Report has primarily looked into which included equity, social justice and security. Social justice is the equal sharing of the resources among the citizens of the nation. But this has never been possible as only a certain groups were always able to get hold of the benefits of the various national resources. The lack of access to resources has simultaneously kept a lot of communities including the Muslims from being part of the nation building process. The disparities in the development process have created a state of instability and thus Muslims were never included in the development process of the nation.

This is visible from the fact that only a mere 4.9 per cent of Muslims are present in the employment sector at the all India level. Out of this 3.2 per cent are in the various central

government jobs. Out of this 3.2 per cent 98 per cent are in the lower grade jobs.¹⁶ A commission was appointed in 2001 by the state government to study the adequacy and representation of the backward classes in the state government jobs. The commission known as the Narendran Commission was headed by K.K Narendran, Retd. High Court judge, and K.V Ravindran Nair and Savankutty were the members. As per the report, there was an under representation of 7383 Muslims in the various government services under the reserved quota. This was in the 12 per cent reservation quota for the Muslims. But if we take the merit quota also into consideration we can see that the gap is very large. Muslim representation in the various positions in civil services and other senior positions in public sector undertakings is also very low. Out of the 181 IAS positions only 3 are occupied by Muslims which comprises only a mere 1.65 per cent. In the IPS positions only 3 out of 139 and in IFS positions only 1 out of 94 are occupied by Muslims. These figures shows that the representation of Muslims in the civil services is less than the national average in spite of having a Muslim population double the national average.

From the table (See Table 4.9) given below we get a comparative idea about the share of each community in the government jobs for the year 2004. Thus Christians who comprise 18.3 per cent of the total population in Kerala have 20.6 per cent of various government jobs. So if we analyse these numbers we can see that there is a proportional increase of 11 per cent for Christians in government jobs compared to their population. For Hindu Nairs who are 12.5 per cent of the total population the share in the government job is 21 per cent and for other forward Hindus who are 1.3 per cent of the total population the share is 3.1 per cent. But Muslims, who comprise 26.9 per cent of the total population, have only 11.4 per cent representation in the government jobs. That means the proportional decrease for Muslims is very high at -

136. The table also shows that even though the cases of SCs and STs are also similar to Muslims with respect to the proportional decrease, but the value is not as high as that of Muslims.

Table 1: Proportional representation in Kerala government jobs, 2004

	Population % (a)	Government Jobs % (b)	Proportional increase/decrease (b-a/b)100
Christians	18.3	20.6	+11.0
Muslims	26.9	11.4	-136.0
Nairs	12.5	21.0	+40.5
Other Forward Hindus	1.3	3.1	+56.5
Ezhavas	22.2	22.7	0.02
Other Backward Hindus	8.2	5.8	-41.0
SCs	9.0	7.6	-22.6
STs	1.2	0.8	-49.5

Source: *Keralapadanam*

The low representation of Muslims in the various government jobs could be seen as the result of two important aspects. We have already seen that even though the enrolment rate among the Muslims in Kerala is higher, the drop out number is also higher for the group. Thus often candidates with the necessary educational qualifications are not present to fill the reserved quota for Muslims. But in certain government jobs which demand only certain basic educational qualifications like class X, we see that, in spite of the availability of eligible candidates, the Muslim quota

remains unfilled. It has been happening for many years by violating the reservation rules and scrapping the quota system. There have also been attempts from the upper castes to get hold of the reserved vacancies of the backward classes, so that they can continue with their supremacy.

Since youth are the life of any society, their life determines the nature of the society. The members belonging to the age group of 18-25 are the most vibrant lot in the society. Their engagements give us an idea about the status of any society. The table 4.10 gives us an idea about what the youth in Kerala who belong to the age group of 18-25 are engaged in. As per the table, 18.7 per cent of Hindus, 20.5 per cent of Christians, 10.30 per cent of SCs and 11.8 per cent of STs are attending various colleges. But only 8.1 per cent of Muslims belonging to the above age group are going to colleges. While a total of 28.6 per cent of Hindus, 35.4 per cent of Christians, 16.9 per cent SCs and 17.7 per cent of STs are involved in some sort of higher studies, only 14.3 per cent Muslims are involved in higher education. When 32.3 per cent Hindus, 32.7 per cent Christians, 42.2 per cent SCs and 37.3 per cent STs are into various employments, only 30.5 per cent of Muslims are employed. But unemployment rate is high among Muslims in the above mentioned age group with a very high per cent of 55.2 compared to other groups like Hindus, Christians, SCs and STs whose unemployment rates are 39.1, 31.9, 40.9 and 45.1 per cent respectively.

Table 2: Engagements of youth between the age 18-25 of various religious communities in Kerala, 2004

	College	Other Studies	Total Studies	Employed	Unemployed
Hindus	18.7	9.9	28.6	32.3	39.1
Muslims	8.1	6.2	14.3	30.5	55.2
Christians	20.5	14.9	35.4	32.7	31.9
Forward	28.1	11.6	39.7	24.1	36.3

Hindus					
Backward Hindus	16.7	10.2	26.9	33.0	40.2
SCs	10.3	6.6	16.9	42.2	40.9
STs	11.8	5.9	17.7	37.3	45.1

Source: *Keralapadanam*

So what has been understood from analysing the above two tables is that the Muslim presence in government jobs as well as the involvement of Muslim youth in higher education are both at a very low level compared to even the SCs and STs. Lack of unawareness about the various opportunities available in the government sector among the Muslims could be related to their low presence in the higher education. The young people of other communities are always alert and prepare themselves to occupy the upcoming vacant posts in various government departments by updating themselves with the vacancies available and preparing for the various public service commission examinations. But the sad part is that the Muslim youth are neither oriented towards attaining government jobs nor are interested in gaining higher education. Rather most of them are unemployed thereby not contributing anything to their self development, development of the community and finally to the development of the nation.

Impact of Migration on the Educational Attributes of Muslims

The trend of emigration to Gulf countries started in the 70s in Kerala and the number increased in the 80s and 90s. The rising rate of unemployment made people to try their luck in the Gulf countries and earn a better livelihood. Out of the total emigration in 2011 the emigration to Gulf countries alone was 89.4 per cent and the rest percentage included emigration to European countries and US. And out of the total emigrants 36.4 per cent are Hindus, 20.0 per cent

Christians and 43.6 per cent Muslims. If we consider migration per household, the number of Muslim households is 59.1 per cent, 18.1 per cent for Hindus and 29.0 per cent for Christians. The total remittances from abroad for the year 2011 were approximately 49,695 crores to Kerala. The Muslim households received 23,089 crores as remittance for the year 2011. Whereas Hindus received 18,089 crores and Christians 8,508 crores as remittances from various countries abroad. The emigration process has created a new class of women in Kerala called the 'Gulf Wives', who are married and their husbands work abroad. The number of Gulf wives is again high among Muslims with 24 per cent. Among Hindus and Christians the number of Gulf wives is very low compared to Muslims at 6.7 and 5.9 per cents respectively.¹⁷

The high number of Gulf wives among the Muslims has an indirect connection with the nature of job in which their husbands are engaged in the various countries. Since most of them are involved in low salaried and casual labours they cannot afford to take their family with them to their place of work. However the low number of Gulf wives among Christians and Hindus could be attributed to their husbands involving in highly qualified professional jobs which allow them to have a settled life with their family at their place of work. This again is related to the level of one's education as high salaried jobs abroad often demands certain level of educational qualifications which are mostly professional degrees.

The study conducted by 'Keralapadanam' has shown that on an average, the remittances received monthly from abroad are high among Christians in Kerala. Their monthly remittances from abroad are 7350 rupees and Muslims are second with 6709 rupees, while Hindus are third with 4522 rupees.¹⁸ It has to be noted that even though the remittance share is high among Christians, the percentage of emigrants is only half the number of Muslims among Christians. This also shows the

nature of employment in which the members of two communities are involved and the average amount of salary received by them.

A significant part of the salary/remittance is used for the educational needs of the children by both the emigrants and non-migrant households in Kerala.¹⁹ But the average years of schooling among the non-migrants is higher than the emigrants.²⁰ This might be due to the increased affinity among the children of the emigrant households to have some sort of a job abroad at the earliest. They would try to get a minimum qualification like high school education and then leave the education behind. When they turn 18 years old they will get a passport and move abroad to engage in some low profile jobs with low salary.

¹ Sachar Committee Report, p.86

² Siddiqui, AKhtar., *op.cit.*, p.16

³ Siddiqui, Akhtar., *op.cit.*, p.1

⁴ Najatullah, K., *op.cit.*, p.11

⁵ Ibid

⁶ National Policy on Education, 1986, p.6-7
(<http://mhrd.gov.in/documents/term/136>)

⁷ Mohammed, U., *op.cit.*, p.132

⁸ Ibid, p. 74-75

⁹ Sahu, Binoo Kumar., (1990), *Education of the Exceptional Children*, New Delhi, Kalyan Publishers, p.78

¹⁰ Mohammed, U., *op.cit.*, p. 133

¹¹ Ibid

¹² Ibid, p.117

¹³ Kabeer, M., (2007), Kerala Muslimkal Adheeshathwamo Adhasthithiyu (Mal.), Edited by Kadakkal, Ashraf., *op.cit.*, p. 28

¹⁴ Narendran Commission Report, 2001

¹⁵ The Times of India., (26th March, 2010), "Poor Muslims Enjoy Quotas in Four States"

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- ¹⁶ Panikkar, K.N., Pratheekshakalum.... p.13
- ¹⁷ Zachariah K.C., and Rajan Irudaya S., (September 2012), “Inflexion in Kerala’s gulf connection, Report on Kerala Migration Survey, 2011”, *Working Paper 450 Centre for Development Studies*, p.31
- ¹⁸ Keralapadanam, p.52
- ¹⁹ Zachariah, K.C., Kannan, K.P., and Rajan, Irudaya S., (2002), *Kerala’s Gulf Connection*, Trivandrum, Centrefor Development Studies, p.32
- ²⁰ Ibid

Islamic Response to Modern Education

Ishtiyaque Danish

Introduction

Modern, modernist, modernism or modernity are no longer vague terms; they are well-defined and properly understood across the globe. But still common and casual usages of these terms often convey a variety of meanings. Also in some situations the terms are contextualized to convey a particular meaning which in other situations is not applicable. For example modernism as general term means “modern character or quality of thought, expression or technique”.¹ It also means “a style or movement in the arts that aims to break with classical and traditional forms or a movement towards modifying traditional beliefs in accordance with modern ideas, especially in the Roman Catholic Church in the late 19th and early 20th centuries”.² Obviously it is not meant by ‘modernism’ when used in the Islamic context. Islamic modernism does not seek to break with traditional or classical Islam but attempts to reconcile between the Islamic faith and modernity. The sea difference that exists between ‘breaking with’ and reconciliation is obvious. Similarly, the terms ‘modern’, ‘modernist’ and the verb ‘modernize’, when used in the Western context, convey meanings and implications which, at least partly, are not applicable or acceptable when they are used in Islamic contexts.

It also needs to be clarified here that modernity is not necessarily Westernization as it was commonly and practically understood by some Muslim proponents of the term in late 19th and early 20th centuries. Thus imitating the West’s mannerism in dress and food is not modernity but Westernization. But learning Western sciences, adapting them to suit to our contextual or cultural requirements and

bringing material development to our societies in a way that doesn't hurt our faith and culture is modernity.

Modernity in Europe:

Modernity, both as a concept and movement first developed in Europe. Here we need to have a look at the four landmark developments in European history: Renaissance, Reformation, Enlightenment and Industrial Revolution.

Renaissance refers to a European Movement that sought to revive art and literature during 14th-16th centuries.³ It is believed that Renaissance originated first in Florence from where it spread to Venice and Rome. By the 16th century it had spread all across Europe.

It must be said here that Renaissance was heavily influenced by the Islamic Civilization. It were the Norman Kings of Sicily who realized the supremacy and importance of knowledge in human life and society. They hired the services of Muslim scholars including the celebrated geographer and traveler-scholar al-Idrisi to translate great books of Arabic language into European languages, especially Latin. From Sicily the Islamic sciences and knowledge reached Italy and other parts of Western Europe. Another source was Muslim Spain from where Europe, especially its Western part, imported knowledge, natural and social sciences, more particularly mathematics, medicine and geography.

The Reformation is another important movement that arose in the 16th century and had far reaching impact on European history.⁴ While the Renaissance was a literary movement, the Reformation aimed at reforming abuses in the Roman Church. It was German theologian, Martin Luther (1483-1546) who is credited to have started the Reformation. His main theological theory or philosophy was the doctrine of

justification by faith. He bitterly criticized the authority of Pope, attacking especially the sale of indulgences which, in plain words, means selling to gullible people the passport to paradise. In 1517 he issued ninety five theses criticizing church's doctrine and practice. The Roman Church reacted harshly and excommunicated him. But it appears as Europe was fed with Roman Church. Large number of people began appreciating and accepting Luther's criticism of the Roman Church. Many other theologians also came out in his support, though they differed from him on some issues. Luther's supporters, when he was excommunicated set up their own churches in Denmark, Norway, Sweden, Saxony, Hesse and Brandenburg which later on were called the Protestant Churches.

Although some of Luther's writings are bitterly critical of the Islamic faith, it is probable that he was influenced by Islam. The movement he started influenced Europe greatly. People abandoned blind faith and gradually began believing in rational interpretation of faith. In some way Luther's reform movement led to the thinking that people should also think about this world which has been converted into a hell by faith-based conflicts.

Another important European movement was **the Enlightenment**⁵ that originated and developed during the late 17th and 18th centuries. The Enlightenment places great deal of emphasis on reason than tradition. The movement drew inspiration from the philosophers and scientists like Descartes, Locke and Newton and its great champions were Kant (philosopher), Goethe (poet), Rousseau (philosopher), Adam Smith (economist) and Voltaire (poet, dramatist). The Enlightenment gradually modernized and secularized Europe.

Industrial Revolution, on the other hand, brought prosperity in Europe. Industrial Revolution⁶ first happened in

late 18th century Britain from where it spread to Western Europe. Industrial Revolution, as we know, changed the mode of production from manual to mechanical. It was the use of machine that made the Industrial Revolution possible. And the most important aspect in almost all kinds of machines was the use of steam engine.

The power of steam is known to man from ancient time. But man could convert it into useable energy only in late 18th century. In 1781 James Watt patented a 10 hp steam engine that produced continuous rotative motion. Within two years 10000 hp steam engines were made. The 1780s thus marks the beginning of what may be called the machine age.

The conversion of steam into useable energy changed the long continuous ancient and middle age into the modern the machine age. Soon factories of all kinds emerged all over Europe which revolutionized the mode and volume of production and in the process changed Europe beyond recognition in the 19th century.

The excess products needed new markets for which means of transport became a necessity. Engineers invented Railways that began running on iron tracks; they also made steam ships which started running on the sea without the support of favourable wind. Railways and steam ships modernized Europe in less than a century and ultimately paved the way for colonization of Asia and Africa.

Industrial development gave birth to big cities where the rural people came and settled in big numbers. The dislocation of population created many problems but people, by and large, seemed happy as the Industrial Revolution had increased their income. There was, no doubt, exploitation of labour in the beginning but gradually became organized and successfully fought and won their rights.

The 19th century Europe also saw revolutionary changes in its educational system. Gradually the concept developed that a certain level of education was necessary for all people to attain. This led to the opening of schools, colleges and universities all over Europe. The universities introduced radical changes in their syllabi and the emphasis shifted from Humanities to Science and Engineering. Social Sciences as independent disciplines also emerged in this very period. The whole phenomena created by the Industrial Revolution, radically changed human life and society in Europe.

It ought to be noted here that all the four movements mentioned above were opposed by the Roman Church in varying degrees of intensity. The Church miserably failed to read the consequences of the fast changing time and lost touch with what came to be known as modernity. It even failed to distinguish between religion and age old social customs and beliefs. There was no need to treat social customs and beliefs as part of religion but the Church committed this mistake, opposed certain scientific discoveries unwisely and as a result became threatened between faith and science created mainly by Darwin's Theory.

As can be imagined modernity did not emerge all of a sudden; it rather took centuries to develop in Europe. It was also a Euro-centric experience which people had undergone through ages. But such a development did not take place in Asia and Africa as it was introduced in the two continents by the Europeans colonizers in a rapid manner. In fact, in many aspects of life, education and judiciary for instance, it was imposed.

Modernity has two important aspects. The first may be described as normative which is related to beliefs and cultural values. In European context the normative of modernity has largely been shaped by the movement of Renaissance,

Reformation and Enlightenment or the Age of Reason. The second aspect of modernity is technical relating to production, organization, even communication which was brought about in England and Europe by the Industrial Revolution. Modernity is, therefore, an European experience which evolved over centuries and is deeply rooted in its philosophical, religio-cultural and industrial history.

Modernity and the Muslim World:

In the world of scholarship it is now widely accepted that European Renaissance was deeply influenced by the Islamic civilization. The military tension and conflict between Islam and Christianity or between the East and the West started during the time of the Prophet Muhammad (Pbuh) and accelerated during the reigns of Pious Caliphs, Umar and Uthman. After a brief halt it continued on a massive scale during the Umayyad period. Before the Crusades the two civilizations continuously clashed in the war theatres of Sicily and Spain for many centuries. In both the centuries Muslims succeeded to establish their rule where their culture flourished by leaps and bounds. However, very few from among the Europeans showed interest in intellectual supremacy of the Muslims and learnt their sciences and religion. There were of course Arabised Christians, especially in Spain, who had adopted the Muslim way of living, their dress, mannerism and language especially. We cannot say that these Arabised Christians had studied and understood Islamic civilization thoroughly; in fact they just saw its appearance, the visible cultural aspects and adopted them in their lives as a fashion.

The first serious effort to understand and acquire the intellectual richness of the Islamic civilization was made by the Normans when they occupied Sicily. Initially they thought that mere change of hands will deliver to them the superior

industrial skills of the Muslims in various fields of production. As a result they took away all the industries from Muslims and gave them to the Christians. But immediately the production declined which alarmed them. They realized that various industries required skills for their proper functioning and progress which cannot be learnt overnight. So, they stopped the persecution of Muslims till the time when their own men will learn their industrial skills. They also realized that Arabic was the language of international trade and decided to learn it. As a result they continued to patronize the Muslim universities and learnt the superior Islamic scholarship from great men of letter and scientists like al-Idrisi who wrote for them the universally acclaimed *Nuzhatul Mushtaq*, a great work on world geography and history. The Normans had commissioned this book in order to advance their international trade. But soon after they committed the fatal mistake of persecuting and driving Muslims out of Sicily. Little did they realize that learning was not a positive, it was rather a continuous life long process.

The Christian Kings and Princes were mainly religious zealots; they were interested more in driving Muslims out of Spain and, as a result, rarely made any effort to learn the European like the French, the English, the German, even the Italians came to Spain, learnt from the Muslims and became of a part and consequent beneficiary of the Renaissance and the Industrial Revolution in Europe. Spain preferred to burn the books after the fall of Granada and missed the bus of development.

Now let us know the story of Muslims' interaction with European modernity. First we take the example of the Ottomans, the largest Muslim Empire at the time of Industrial Revolution in Europe. Well up to the 17th century the Ottomans had dominated Europe militarily. They

suffered their first defeat during the second siege of Vienna in late 17th century.

This marks the beginning of the long decline of the Ottoman Empire. Unfortunately we do not see any serious effort, neither on the part of rulers nor on the part of *Ulama* or intellectuals, to find out the real reason behind the rising European supremacy. Throughout the 18th century, the Europeans particularly the French and the British made organized efforts to monopolize the international trade which hitherto was dominated by the Muslims through traditional old-fashioned shipping. The European monopolization of international trade through the sea routes was a clear sign of threat which the Ottomans failed to realize and therefore could not counter it. Even the Mughals of India failed to see this threat and as a result never thought of developing a navy.

The domination of international trade between Asia-Africa and Europe gave the British and the French enormous wealth which they used to modernize their army, especially the navy. The Ottomans awoke to the danger in late 18th century when Napoleon occupied Egypt. But sadly they could think of modernizing their army only which failed to arrest their decline. Because Europe's military supremacy was not because of the dress their army wore nor only because of the weapons they used. It was rather in their intellectual superiority, especially in the field of science and technology which was a result of centuries old efforts. The Ottomans unwisely thought that if they imported European modernity, the Ottoman Empire will become modernized and developed. They introduced *Tanzimat*, a set of rules and regulations, blindly borrowed from Europe, to modernize their state and its various institutions including educational institutions, judiciary and the legal system. At a later stage Mustafa Kamal pursued Westernization more vigorously. But

like the exponents of *Tanzimat*, his understanding of both, the West and Islam was superficial.

Muhammad Ali (1805-1849) who ruled Egypt in the first half of the 19th century, like the Ottomans, sought to modernize Egypt by importing Westernization in the country. However, he not only sought to modernize the Egyptian state particularly the army but also its various institutions. He was especially interested in modernization the educational system. But for him, too, modernization meant importing the West's educational systems. Ideas like the Islamic world view, Islamic epistemology or the Islamic concept of knowledge never crossed his mind. His efforts, therefore, resulted not in Islamic revival but only in partial Westernization of Egypt, especially of its elite.

Modernity reached India in different way. The British occupied Bengal in 1757 and immediately set out to impose their legal system on the occupied province. By the end of 18th century they controlled bulk of India and the Mughal Emperor was compelled to live on a meagre amount of money that the company paid to him. Even in Delhi the power rested more with the British Resident than with the Mughal Court. The defunct Mughal Empire ended in 1857 and the British became master of the entire country.

Of all the changes that the British introduced in India, two i.e. legal and educational reform brought India very close to Western modernity. The Muslims had fought bitterly against the British occupation of the country and lost the war and, therefore, they hated the British. The *Ulama*, too, had participated in the 1857 Rebellion on a massive scale and as a result many were hanged, while others were tried and jailed. They also could not reconcile with the loss of power and hated everything British. They refused even to learn and teach English language in the *Madaris* they set up after 1857. As can

be imagined no worthwhile effort was made by the *Ulama* to fully understand the West, especially the modernity that the British schools, colleges and universities were spreading in the country. The *Ulama's* rejection of modernity was more an expression of anger than being based on a scholarly study of the subject.

Interestingly the Christian missionaries and some missionary-minded British officers attacked Islam as being incompatible with modernity. Christianity was on the back foot in Europe including England because a good number of scholars were questioning its relevance in the modern time. The Christians theologians had no answer to such criticism of their religion in Europe and yet here in India they were attacking Islam as being backward and out of time with modernity.

The *Ulama* were largely unaware of Christianity's plight in Europe. Similarly they mistook all Britishers as being true Christians while probably a vast majority was Christian just in name. The *Ulama*, therefore, remained aloof from them and perhaps never sought to understand modernity from them.

Sir Syed Ahmad Khan alone responded to modern education in a positive way. Sir Syed deserves to be called an *Alim* because he was not a graduate from some Western university or British institution. He had received only traditional education as did the *Ulama* of his time. He championed modern education, not because he had studied and understood modernity very well; he rather did it realizing the fact without modern education the Muslim decline will continue unhindered. It was mainly his concern for Muslims' progress, which he believed could be secured by obtaining Government employments that prompted him to establish the Anglo-Oriental Mohammadan College at Aligarh which became a university in 1920.

Being a Government servant Sir Syed came in contact with many British officers. He had saved the lives of many Britishers during the Rebellion of 1857 which the British appreciated immensely. This further brought him in close contact with the British officers. He also interacted with the British missionaries and thus fully knew the fact that they considered Islam as backward. He took it upon himself to prove that Islam was quite compatible with modern science and in so doing he interpreted some vital aspects of the faith in a way that the *Ulama* and the people did not like or approve of.

It appears as neither modernity nor his own theological ideas were very dear to Sir Syed Ahmad Khan. His sole commitment was to work for Muslim welfare and progress. He, therefore, reading agreed to the Muslim demand that his own books will not be taught in the college he had set up for them. He also introduced a course on Islamic theology in the MAO College in order to assure the suspecting Muslims that his championship of modern education was not against Islam. However, it must be accepted that Sir Syed stood for modern education because he felt it was necessary for Muslim survival and progress in India.

Allama Shibli Nomani, a colleague-disciple of Syed Ahmad Khan, was probably the first '*Alim*' who had seen both modernism and traditionalism very closely. He sought to reconcile between the two but failed because both the *Ulama* and the modern educated were not ready for a compromise.

The debate over the question of compatibility of Islam with modernity continued to agitate the Muslim mind even after Sir Syed and Shibli. There was slightly bitter written dialogue between Maududi and Fazalurrahman. Fazalurrahman a supporter of modernity through and through whereas

Maududi advocated an alternative Islamic concept and system of education.

Today we cannot be sure if the question or problem that confronted Sir Syed and Shibli or Fazalurrahman and Maududi has been answered/ solved. There are both *Madaris* as well as Muslim-managed colleges and universities. Sometime there appears tension between the two but examples of cooperation are not rare to find. It must be considered as a healthy development and should encourage us to address a fresh the question of compatibility between Islam and modernity.

In the context of education modernity stands for ever expanding science and technology, ever-growing human ideas in all fields, humanities and social sciences. The ultra modernists still believe that knowledge is secular and cannot be coloured with any religion or culture. But there are also the ones who have shunned rigidity and believe that modernity and secularism are not synonyms. This gives us hope and scope to discuss and develop an Islamic concept of knowledge, which is Islamic and Islamic alone, well above the narrow and polarized debate over modernity and traditionalism.

The Importance of Knowledge in Islam

Ilm (knowledge) and its various derivatives (mushtaqat) have occurred 778 times in the Holy Quran. There are also words in the Holy Quran such as Tadabbur, Tafakkur, Nur, Baseera, Hikmah, Hidayah and their derivatives that convey meanings and implications which fall in the overall purview of Ilm or Knowledge. It is not for nothing that the very first verses revealed to the Prophet (S.A.W) in the cave of Hira, speak about or highlight the importance of Knowledge and

Technology of writing. For common benefit we translate these verses below:

Read in the name of thy
 Lord Who created man out
 Of a leech like clot.
 Read, and thy Lord is Most
 Bountiful, Who taught (man)
 Through the pen. He Taught man
 What he knew not. (96: 1-5)

There are three key words which require deep and thorough understanding. The three words are: Iqra (read), pen (Qalam) and Taaleem (Teaching). In other words God has described reading, writing and teaching as His blessings, and has preferred them over other countless bounties including the very creation of man. It is also important to note that Allah has described His bounties of knowledge and technology of writing as blessings to man i.e. mankind and not as the ones given to Muslims only. This establishes the inclusiveness and universality of Knowledge in Islam.

The Holy Quran has described the Prophet as the one who teaches al-kitab and al-Hikmah , Gods revelation and the Prophetic wisdom respectively. A prophet of God indeed has to be the teacher of mankind because man's distinguishing quality that separates him from other creatures is his knowledge. Read and ponder over the verses of Al-Baqra (30-33) which give an account of man's creation. It may be concluded here that the very reason of man's creation was his knowledge of things.

Another quality of man that distinguishes him from other creatures is his reasoning faculty, his ability to know, to think and to decide or his capacity to understand, reflect and choose between alternatives or good and bad. This quality

gives man the ability to find Truth and thank Allah. Says the Holy Quran:

It is He Who brought you forth
From the womb of your mother when
You knew nothing; and He gave
You hearing and sight and intelligence
And affections, that you may
Give thanks to God (16:78)

At another place the same thing is described even more forcefully:

Have We not made for him a pair
Of eyes? And a tongue and a pair
Of lips? And shown him the two
Highways (of good and evil)? (90:8-10)

The Holy Quran invites people to ponder over God's signs scattered all over the universe or found within the human body. Both the systems, one that operates in the universe and the other that functions within human body perfectly, are quite complex and provided the most compelling evidence of God's existence. The following verses draw our attention to God's signs in the universe and invites us to think

God is He Who spread out the earth
And set thereon mountains standing firm
And rivers; and fruits of every
Kind He made in pairs, two and two, Behold!
Verily in these things there are signs
For those who reflect. (13:3)

Man has been witnessing God's signs in the universe since ages but he could know about the complex system operating in his/her body only in the modern time. No one knows how

many more wonders of god are around us or when will these be discovered? Man is continuously working and trying to discover them. Surely the man's knowledge is marching ahead as in evident from the following verses:

Soon will We show them Our signs in
The (furthest) regions (of the earth) and
In their own souls until it becomes
Manifest to them that thi is the truth.
Is it not enough that thy Lord does
Witness all things.(41:53)

There are several saying of the prophet which highlight the importance of Knowledge in Islam. There is that saying of the prophet (S.A.W) which has made it obligatory for every Muslim to acquire Knowledge. Another Hadith has equated the pursuit of Knowledge to worship. And the Prophet (S.A.W) is also reported to have said that even the fish in the water prays for seekers of knowledge. Once he also said the a little Knowledge is better a lot of prayer (the prayer here probably means praying without Knowledge). A similar interpretation can be attributed to this saying of the prophet (S.A.W) that a scholar is superior to the pious like the full moon over the stars. And remember the following hadith:

Wisdom is the lost property
Of believers; he catches
Hold of it wherever he find it.

And finally read the most famous hadith which has describe the scholars as heirs to the Prophets. All the verses and sayings of the Prophet (S.A.W) quoted or mentioned above highlight the central importance of Knowledge in Islam. The early Muslims understood it well and consequently launched an intellectual movement which has no parallel in human history.

The central emphasis of the Quran on acquisition and promotion of Knowledge naturally has a profound impact on the early Muslims. Their seminal contribution is evident from the historical account of their efforts that they made to preserve the Holy Quran and the sayings of the Prophet (S.A.W) for the generations to come. The way they applied their mind to address and solve new emerging problems and thus gave to the world the science of Fiqh is not standing by any standard. The passion they showed and the troubles they took to acquire the treasure of knowledge possessed by other nations or civilizations have no parallel in human history.

From the above discussion regarding the Quranic and prophetic emphasis on knowledge and from what the early Muslims did to promote it, we can easily understand the salient features of the Islamic concept of Knowledge.

The Muslim attitude to everything is shaped by Tawheed, the faith in the Oneness of God. The Allah we believe in is the Lord of the world. Who has created all men as equal and has been sustaining them regardless of the fact whether they worship him or not. This belief has always shaped the attitude, character and personality of Muslims scholars in the most positive manner. This especially had a deep impact on the early Muslims. Such silly ideas never crossed their mind that being conqueror they had no need to learn from the people they had defeated and conquered. Instead, willingly they became the students of the conquered people in order to acquire the knowledge they possessed. Similarly when it came to give their own treasure of Knowledge to the world, they never made any distinctions between Muslims and Non-Muslims students.

Universalism is thus the most important feature of the Islamic concept of Knowledge. We Muslims, are Muslims because we believe in the universal religion called Islam. That

we believe that Islam is not for Muslims alone; rather it belongs to all mankind. Islam being universal has created an universal Ummah which has in its fold several ethnic and racial group with different languages and culture. But they all are united in the global Ummah because of their faith in Islam.

It is natural that a globalist religion will shape and develop an inclusive Universalist civilization. As the faith, Islam itself included in it all those people who embraced it, the civilization it gave birth to, also became inclusive and universal. We, therefore, witness that during its long term history the Islamic civilization incorporated or absorbed several regional traits, customs or cultural tradition provided they did not contradict any fundamental tenet or aspect of Islam.

When the faith, Islam and the civilization is created are universal, the concept of knowledge and the worldview they have developed will naturally be universal. The Islamic concept of knowledge by nature, cannot be parochial, racial or ethnic; instead it may be liberal both in acquisition and promotion of knowledge. This is the reason that all through their history, especially during the time of Muslims have always been very eager to acquire Knowledge from all sources and, likewise, have equally been enthusiastic in giving it to who so ever sought it from them.

Historicity, rationalism and egalitarianism are the other important features of the Islamic concept of Knowledge. But we would explaining in detail as they are not necessarily required for any aspect of our central theme. It's then time to go back to our discussion on Islam and modernity with reference to education.

As this very time European civilization was on the rise. The Muslims of Spain were being defeated and driven out and the libraries containing their intellectual treasure were set on fire. In the east the Ottomans had occupied Constantinople and parts of Eastern Europe. But unlike the Arab, the Ottomans were not great patrons of Knowledge. The intellectual decline of Islam, therefore continued despite the great success of their military campaigns in Eastern Europe.

There is no duality of the sacred and the profane in Islam which, in fact, is a European division. There is a long history as to how this division happened in Europe and it came to the Muslim world. In brief, when the Church sought to control every aspect of Christian life without offering any rational expectations for its policies, decision or behaviour, the Europeans gradually revolted against it. The revolt ultimately led to the division between the secular and the religious, even it undermined the later.

When the Europeans colonized the Muslim world or increased their influence there, they introduced their brand of modernity which was a product of the division between the sacred and the profane to a great extent. It may also be noted here that the Europeans colonized the Muslim world including India, then under Muslim rule, at a time when the followers of Islam had fallen in deep intellectual slumber. They had indeed fallen behind, politically, economically, militarily, educationally and also intellectually. Thus they were unprepared to face Europe's academic and intellectual onslaught. Many Muslims got confused and accepted Europe as a model of all round development which stood for everything good where as the Orient, the Islamic world particularly was on the wave in every respect. The confusion as well as the whole hearted acceptance of Europe's superiority paved the way for the division between the sacred and profane in the Muslim world.

The colonization and the subsequent political and military domination of the Muslim world by Europe adversely affected the Muslim psyche. Many became a victim of inferiority complex which has proved quite dangerous over the centuries. But what proved to be the most dangerous, even deadly was that the colonizers imposed their philosophy of education of the Muslim world. They opened colleges and universities which taught European syllabi developed on the basis of the division between the secular and the religious. The impact of the European system of education on the Muslim world has been immense. Unfortunately the same system continues in Muslim countries even after the colonialists were compelled to go home. Many among us say that this division is unislamic; a group of academics has eventried to Islamise Knowledge but the fact remains that the Western system of education dominates the scene in most Muslim countries.

India is no exception. When the British began colonizing India in the 18th C. the country was under the Muslim rule. During the Muslim period Madaris had produced both the civil servants and the religious scholars. The syllabus for both of them was the same and there was no duality in the system of education. The Madrasa system was already on the wave when the British occupied India. And when they imposed their system of education on the country and made it compulsory for Government seekers to obtain a degree for their colleges and universities, the madaris became more marginalized. The ulama's attitude also sharpened the duality created by the British, for they either boycotted the British education or wanted to protect their madaris from Government interference.

We know that Allama Shibli's effort to reconcile between modern and traditional system of education at Nadwa in Lucknow had not met with success. Earlier Sir Syed's attempt

to end this duality by introducing a compulsory paper of theology had also failed. The concept of Islamic universities conceived and developed by the OIC and promoted by an influential group of intellectuals has been encouraging here and disappointing there. The encouraging sign is that more and more people including good number of Ulama today believe that Islam does not favour any duality in education. From what we have discussed to explain the Universalist Islamic civilization have a healthy attitude towards all kind of knowledge. Knowledge and wisdom we believe is our lost property. Don't we need to make a concerted effort to discuss and discover if modernity too, wholly or partly, is our lost property which we must catch hold of as the Prophetic saying has urged us.

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Index

A

A.K. Sen 47
A.P. Vijapur 33, 34
A.S. Ramaswami 172
Abdul Matin 47
Abul Fazal 12
Abul Kalam Azad 18
Ahmad Ali Abdallah 274
Ahmadabad 58, 59
Ajit Singh 27
Ajmer 33
Akali Dal 24, 25
Akhtar Siddiqui 370
Alauddin Khilji 18
Al-Beruni 18
Al-Idrisi 373, 378
Aligarh 54
Aman Mohd Khan 48
Amartya Sen 46 208
Amir Khusrau 9, 18
Anandpur 24
Andhra Pradesh 144, 168,
177
Anthony Giddens 316, 318,
342
Ashgar Ali Engineer 73, 212,
213
Ashok Mehta 140
Assam 37, 39, 43, 177
Ayodhya 51, 56
Azim Premji Foundation 210

B

Baba Farid 11
Babri Mosque 54

Bangladesh 7
Bengali 4
Bhiwandi 49, 51
Bhopal 54
Bhutan 7
Bihar 20, 37
Bombay 54
Britain 375

C

C.J. Fuller 34
Cairo 161
Chhattisgarh 26

D

D. Madon 61
D.S. Kothari
Dara Shikoh 18
Darse Nizami 160, 163
Davos 28
Deen Dayal Upadhyaya 221,
234
Delhi 54, 177
Denmark 374
Deoband 141, 149, 163
Deshmukh, V.N. 50
Dr. Ambedkar 104
Durban 59

E

Egypt 380
Enlightenment 374

Index

F

F.R. Faridi 312
Francis Buchanan 46
Francis Robinson 173

G

G. McLennan 33
Gajendra Godkar J. 76, 77
Germany 28
Ghaus Ansari 46
Goa 37
Godhra 56
Goswami A.K. 124
Graham Staines 56
Gujarat 38, 177
Gupta, S.N. 312
Guru Nanak 11

H

Harsh Mander 57, 73
Haryana 30, 38, 177
Helmut Reified 34
Hindu 4

I

Imtiaz Ahmad 34, 45
Inder Malhotra 58
India 7
Indira Gandhi 55, 64
Industrial Revolution 374
Iqbal Ahmad Ansari 73

J

J.H. Hutton 140
J.M. Broomfield 132, 140
J.S. Furnivall
Jagmohan Reddy 64
Jammat-e-Islami 162, 164
Jamia Azhar 161
Jammu & Kashmir 37
Jawaharlal Nehru 22
Jeromi P.D. 47
Jharkhand 26
Julio Reibero 58

K

K.M. Munshi 107
Kabeer M 370
Kannada 4
Karnataka 38, 55, 177
Kashmiri 4
Kerala 37, 62, 347, 350
Khushwant Singh 59
Kuldeep Singh 105

L

Lily Thomas 108
Lucknow 46

M

M. Athar Ali 46
M.H. Qureshi 234
Maharashtra 23, 25, 37, 145,
177
Mahatma Gandhi 32
Mahmud Ghaznavi 18

Index

Samachar Chandrika 131
Sant Kabir 11
Sarkaria Commission 22
Sarla Mudgal 105
Saxena, N.C. 52, 53
Sayyad Ahmad 163
Sayyid Mahmud Rizvi 173
Sayyid Shahobuddin 73
Seervai H.M. 108
Sekh Rahim Mondal 178, 212
Shafiquzzaman 172
Shah Abdul Aziz 133
Shah Banu 78
Shah Kabiruddin 133
Shah Waliullah 133, 170
Shaykh Ibrahim
Sher Shah 18
Shibani Roy
Shibli Nomani 382
Shila Sen 140
Shiv Sena 23
Siddharth Varadavajan 73
Sikandar Lodi 18
Sindhi 4
Sir Syed Ahmad Khan 133,
381, 382
Soli Sorabjee 67, 69, 71
Srilanka 7
Surat 54
Syed Khalid Rashid 107
Syed Shahabuddin 59 228,
235

T

T.K. Oomen 34
Taha Hussain 161
Tahir Beg 233

Tahir Mahmud 107
Tamil 4
Tamilnadu 20, 25
Tannan M.L. 277, 312
Tanzimat 379, 380
Telengana 26, 142
Telgu 4
The Ottomans 379

U

Uniform Civil Code 222
Uttarakhand 26

V

V. Kannu Pillia 73
V.M. Tarkunde 58
Veronique Benei 34
Vibhuti Narain Rai 51, 61
Vijay Karan 59
Vir Sanghvi

W

West Bengal 24, 37, 177
WW Hunter 133