
— RELIGION —
A TOOL FOR DISCRIMINATION
IN SOUTH ASIA?



— RELIGION —
A TOOL FOR DISCRIMINATION
IN SOUTH ASIA?



Published by:

South Asians for Human Rights (SAHR)
345/18 Kuruppu Road (17/7 Kuruppu Lane)
Colombo 8, Sri Lanka

Telephone: +94-11-5549183

Fax: +94-11-2695910

Email: sahr@sltnet.lk

Website: www.southasianrights.org

Printed and published in Sri Lanka 2010

All rights reserved. This material is copyright and not for resale, but may be reproduced by any method for teaching purposes. For copying in other circumstances or for re-use in other publications or for translation, prior written permission must be obtained from the copyright owner.

ISBN – 978 – 955 – 1489 – 11 – 3

Design and pagination: Wits Associates (Pvt) Ltd.

Printed in Sri Lanka at Samayawardena Printers

To
Meeto
(Kamaljit Bhasin Malik),

*for her undaunted spirit and commitment to recover a world of peace and harmony,
of tolerance and respect amongst the peoples of South Asia*

Table of Contents

Acknowledgements	ix
About the Authors	x
Abbreviations	xi
Introduction	xv

BANGLADESH

Introduction	3
1. Politics of Religious Minority Creation in Bangladesh	4
2. State Obligations under International and National Laws: Policies and Practices	8
3. The Electoral System and Electoral Violence	11
4. Representation in the Public Sphere	15
5. The Legal System	18
6. The Non-Governmental Sector	19
7. Mass Media and Culture	19
8. Education	23
9. Economic Issues	27
10. Religious Rights	32
Concluding Remarks	34
Annex 1 Terrorist Outfits in Bangladesh	36

INDIA

Introduction	41
1. Demographic Profile of Minorities	43
1.1 Demographic politics	43
1.2 Urbanisation	46
1.3 Christian-Majority States and Districts	47
1.4 Muslims as Voters	48
1.5 Caste Composition of Religious Communities	49
2. Socio-economic status of minorities	50
2.1 Workforce	50
2.2 Employment & Unemployment	55
2.3 Child Labour	56

2.4	Education	57
2.5	Poverty	60
2.6	A Survey of Muslim Women	63
2.7	Some Data on the Status of Minority Women	67
3.	Areas of Discrimination	70
3.1	Political Discrimination	70
3.2	Indirect Forms of Discrimination by the State	73
3.3	Under-Representation in Employment	75
3.4	Under-Representation in All-India Services	75
3.5	Under-Representation in State Services	76
3.6	Under-Representation in Other Key Organs of the State	77
3.7	Discrimination in Access to Bank Credit to Minorities	79
3.8	Discrimination in Welfare Measures	81
3.9	Discrimination in Providing Infrastructure	83
3.10	Discrimination in Providing Basic Needs	84
3.11	Income, Assets and Unmet Basic Needs	84
3.12	Discrimination in the Private Sector	85
3.13	Present Framework of Positive Discrimination Inadequate	88
3.14	Discrimination in the Sphere of Education	89
3.15	Discrimination in Access to Healthcare	102
3.16	Cultural Discrimination	103
3.17	Discrimination and Stereotyping in the Media	106
3.18	Discrimination against Kashmiri Pandits	107
3.19	Encouraging Internal Processes of Reforms within the Minority Communities	107
3.20	Cases of Discrimination by the Established Church	110
3.21	Uniform Civil Code	110
3.22	Muslim Women's Bill	110
3.23	Day-to-day Forms of Discrimination	111
3.24	Discrimination against Migrants	111
3.25	For a Consistent Struggle against Discrimination	112
4.	Measures to Redress Discrimination	113
4.1	The National Common Minimum Programme (NCMP) of the Previous UPA Government (2004–09) on Minorities	113
4.2	Need for Stringent Laws against Communal Violence, Hate Crimes and Discrimination	116
4.3	Relief and Rehabilitation Assistance to Victims of Communal Violence	118
4.4	Equal Opportunities Commission	119
4.5	The Vexed Question of Reservation for Minorities	120
4.6	Socio-Economic Measures	122
4.7	Some Corrective Measures	129

PAKISTAN

1. General Overview	133
1.1 Definition of ‘Majority’	134
1.2 NWFP and FATA Areas – Hub of Religious Atrocities in Pakistan	135
2. Religious Minorities	136
2.1 State of Minorities	138
2.2 Places of Worship	141
2.3 Freedom of Expression	145
2.4 Role of Media	148
2.5 Education	149
2.6 Laws and the State	157
2.7 Forced Conversions	161
2.8 Minority Graveyards	164
2.9 Positive Developments	165
3. Women	165
3.1 Political Regimes and Women’s Rights	166
3.2 Legal Discrimination of Women	167
3.3 Judicial Redress	170
3.4 Parallel Judicial Systems	170
3.5 Social Exclusion of Women	172
3.6 Education	173
3.7 Women and Media	175
4. Case Studies	176
4.1 Red Mosque Siege (<i>Lal Masjid</i>)	176
4.2 Swat Offensive - Resurgence of the Taliban	178
5. Recommendations	180
5.1 Legal	180
5.2 Policy Measures	182
5.3 Advocacy and Awareness of Legal Rights	184
5.4 Political Representation	185
6. Conclusion	185
Main References	186
Annexure A	187
Annexure B	189

SRI LANKA

1. Introduction	193
1.1 Ethnicised and Politicised Buddhism in Sri Lanka: A Brief History	195
1.2 The Mahavamsa and its Legacy	197
1.3 Role of the Sangha	199
1.4 Ethnic Outbidding	201
2. Laws, Policies and Programmes informed by the Sinhala Buddhist Nationalist Ideology	204
2.1 State Self-Identification with Buddhism	204
2.2 ‘Sinhala Only’ Policy	207
2.3 Education	211
2.4 Land and Other Related Issues	213
2.4 Christians under Siege	215
2.5 The Incorporation Cases	216
2.6 Anti-Conversion Legislation	217
2.7 Laws that Never Were	219
3. Reproducing and Propagating the Ideology	224
3.1 The Media	224
3.2 The Education System	226
4. Recurring Patterns of Collective Violence	230
5. Conclusions	234
Bibliography	236

Acknowledgements

South Asians for Human Rights (SAHR) is pleased to present this volume which explores the use of religion in Bangladesh, India, Pakistan and Sri Lanka to discriminate between citizens. The four country reports, based on research conducted in 2009, are a follow up to the findings on the state of minorities by the South Asian People's Commission for the Rights of Minorities (SAPCROM), an independent commission set up by SAHR in 2003.

Each country chapter points to discriminatory state laws and policies that have marginalised minorities, and exposed them to discrimination and violence. These biases are particularly noticeable in educational texts, curricula, education and employment policies. Religious schools in particular have a parochial approach to education and knowledge.

SAHR wishes to thank all the authors -- Chulani Kodikara (Sri Lanka), Saba Naveed Shaikh (Pakistan), Satya Sivaraman (India), Amena Mohsin (Bangladesh) -- for their commitment in researching and writing the country studies.

Thanks to Dr Hameeda Hossain, who despite her many responsibilities, wrote the introduction and provided overall editorial guidance, and Jacqueline Netto-Lyman for editing, proofreading and coordinating with the printers.

And last but certainly not least, heartfelt thanks to the SAHR bureaux in Bangladesh, India, Pakistan and Sri Lanka, and the SAHR Secretariat staff in Colombo, for their invaluable help and support in making this publication a reality.

About the Authors

AMENA MOHSIN is Professor in the Department of International Relations, Dhaka University. She graduated from the same department. She received her MA and Ph D Degree from the University of Hawaii, USA and the Cambridge University, UK subsequently. She did her post-doctoral research, at the ISS, The Hague, Netherlands. Her major areas of interests are rights issues, gender and security. She has published numerous articles in various national and international journals and has authored two books on the Chittagong Hill Tracts, Bangladesh. She has participated in numerous national and international seminars.

SATYA SIVARAMAN is a print and broadcast journalist with over 24 years of experience in South and Southeast Asia. Currently he is working with Uppsala University, Sweden on themes ranging from finding new ways of communicating the human-microbe relationship to mobilizing popular movements around the problem of antibiotic resistance. His most recent video work is titled 'Antibiotic Resistance for Idiots' and he is now working on a documentary/animation feature called 'Who Killed Antibiotics?' Satya is also part of an initiative in Jharkhand with the United Mill Forum for training health workers to provide primary health care in rural communities. Apart from addressing public health issues in Jharkhand the initiative seeks to promote communal harmony in the state through direct interventions in health, education and employment generation.

SABA NAVEED SHAIKH is Project Coordinator of the Child Rights Unit at the AGHS Legal Aid Cell and Teaching Assistant at the Lahore University of Management Sciences. Publications include a Booklet on Child Labor – A ready source of information for human rights activists on international standards and domestic law, rules and regulations on child labor. The primary purpose of the booklet is to facilitate monitoring of the practice of child labor in Pakistan. She has also compiled a Law Digest on the Juvenile Justice Case Law of Pakistan which will be published this year and will be used for training of human rights activists and building the human resources necessary for carrying out informed activities on children involved in criminal litigation.

CHULANI KODIKARA currently works as a Research Associate at the International Center for Ethnic Studies focusing on issues related to women's rights and peace in Sri Lanka. She is the author of Muslim Family Law in Sri Lanka: Theory, Practice and Issues of Concern to Women and Women and Governance in Sri Lanka (with Kishali Pinto Jayawardena). Most recently she has been experimenting with using visual media for social justice and has made a 10 minute film titled 'Where are the women in local government?' with Jeyachitra Velayudan.

Abbreviations

AI	Amnesty International
AIADMK	All India Anna Dravida Munnetra Kazhagam
AICC	All India Congress Committee
AIMMM	All India Muslim Majlis-e-Mushawarat
AIIMS	All India Institute of Medical Sciences
AL	Awami League
AMU	Aligarh Muslim University
ANP	Awami National Party
APMA	All Pakistan Minorities Alliance
APRC	All Party Representative Committee
ASEAN	Association of South East Asian Nations
ASSOCHAM	Associated Chambers of Commerce and Industry of India
AUDF	Assam United Democratic Front
BANBEIS	Bangladesh Bureau of Educational Information and Statistics
BC Pact	Bandaranaike–Chelvanayakam Pact
BCS	Bangladesh Civil Service
BJP	Bharatiya Janata Party
BNP	Bangladesh Nationalist Party
BSUP	Basic Services to the Urban Poor
BSSMU	Bangabandhu Sheikh Mujib Medical University
BTS	Buddhist Theosophical Society
BUET	Bangladesh University of Engineering and Technology
CAG	Comptroller and Auditor General of India
CAT	Convention against Torture
CCDB	Christian Commission for Development in Bangladesh
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CHT	Chittagong Hill Tracts
CII	Confederation of Indian Industry
CLAAS	Centre for Legal Aid, Assistance and Settlement
CNC	computed numerically controlled
CNN	Cable News and Network
CPI(M)	Communist Party of India (Marxist)
CSR	corporate social responsibility
CSO	Central Statistical Organisation
CWC	Ceylon Workers Congress
DC Pact	Dudley Senanayake - Chelvanayakam Pact
DDC	District Development Council

EAMCET	Engineering, Agriculture and Medicine Common Entrance Test
EBP	Eksath Bhikku Peramuna
EC	Election Commission
EPTB	Evacuee Property Trust Board
ESR	Education Sector Reform
FIR	First Information Report
FATA	Federally Administered Tribal Areas
GCU	Government College University
GD	General Diary
GoSL	Government of Sri Lanka
HuA	Harkat-ul-Ansar
HuJI	Harakat ul-Jihad-Islami
HuJI-B	Harakat ul-Jihad-i-Islami/Bangladesh
HuM	Harkat-ul-Mujahideen
HRCP	Human Rights Commission of Pakistan
HRW	Human Rights Watch
IAS	Indian Administrative Service
IAY	Indira Awas Yojana
ICCPR	International Convention on Civil and Political Rights
ICDS	Integrated Child Development Scheme
ICES	International Centre for Ethnic Studies
ICESR	International Covenant on Economic, Social and Cultural Rights
ICG	International Crisis Group
IHSDP	Integrated Housing and Slum Development Programme
IIF	International Islamic Front
IIM	Indian Institute of Management
IIT	Indian Institute of Technology
ILO	International Labour Organisation
INGO	International Non Governmental Organisation
IOJ	Islami Okiyya Jote
IPKF	Indian Peace-Keeping Force
ISI	Inter-Services Intelligence
ISI	Indian Standards Institute
ISPA	Indo Sri Lanka Peace Accord
ITI	Industrial Training Institute
JMJB	Jagrata Muslim Janata Bangladesh
JMB	Jama'atul Mujahedin Bangladesh
JeI	Jamaat-e-Islam
JeM	Jaish-e-Mohammed
JCMOE	Joint Committee of Muslim Organisations for Empowerment

JHU	Jathika Hela Urumaya
JIH	Jamaat-e-Islami Hind
JMB	Jama'atul Mujahedin Bangladesh
JMJB	Jagrata Muslim Janata Bangladesh
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
Juh	Jamiat Ulama-e-Hind
JVP	Janatha Vimukthi Peramuna
LEBM	Lanka Eksath Bhikku Mandalaya
LET	Lashkar-e-Taiba
LF	Left Front
LIC	Life Insurance Corporation
LSSP	Lanka Sama Samaja Party
LTTE	Liberation Tigers of Tamil Eelam
MBBS	Bachelor of Medicine and Bachelor of Surgery
MEP	Mahajana Eksath Peramuna
MFA	Ministry of Foreign Affairs
MLA	Member of the Legislative Assembly
MMA	Muttahida Majlis-e-Amal
MNA	Member of the National Assembly
MOU	Memorandum of Understanding
MRGI	Minority Rights Group International
MWS	Muslim Women's Survey
NCERT	National Council of Education Research and Training
NCMP	National Common Minimum Programme
NDA	National Democratic Alliance
NEC	National Education Commission
NECE	National Early Childhood Education
NEP	National Education Policy
NEPC	North East Provincial Council
NFHS	National Family Health Survey
NGO	Non-governmental organization
NHRC	National Human Rights Commission
NMDFC	National Minorities Development Finance Corporation
NREGA	National Rural Employment Guarantee Act
NRHM	National Rural Health Mission
NRI	Non-resident Indian
NSA	National Security Act
NSSO	National Sample Survey Organisation
NUHM	National Urban Health Mission
NWFP	North West Frontier Province

OBC	Other backward classes
OLC	Official Languages Commission
ORG	Operation Research Group
PCR	Protection of Civil Rights
PIA	Pakistan International Airlines
PPC	Pakistan Penal Code
PSC	Public Service Commission
PSL	Priority Sector Lending
PSU	Public Sector Unit
PTOMS	Post Tsunami Operational Management Structure
RBI	Reserve Bank of India
RSS	Rashtriya Swayamsevak Sangh
SAHR	South Asians for Human Rights
SAPCROM	South Asian Commission for the Rights of Minorities
SC	Scheduled Caste
SJSRY	Swarna Jayanti Shahari Rojgar Yojana
SLFP	Sri Lanka Freedom Party
SSA	Sarva Siksha Abhiyan
ST	Scheduled Tribe
SVRS	Sample Vital Registration System
SWRD	Solomon West Ridgeway Dias (Bandaranaike)
TNSM	Tehrik-e-Nifaz-e-Shariat Mohammadi
TTP	Tehrik-e-Taliban Pakistan
TULF	Tamil United Liberation Front
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNP	United National Party
UPA	United Progressive Alliance
UPFA	United People's Freedom Alliance
USIP	United States Institute of Peace
UT	Union Territory
UTHR	University Teachers for Human Rights
VHP	Vishwa Hindu Parishad
VPA	Vested Property Act

INTRODUCTION

The challenge of independence for South Asia was to weld diverse communities into composite nation states that recognised pluralism, respected human rights and guaranteed freedom and equality for all. Sixty years on citizens are confronted with asymmetries in accessing rights and opportunities, because they are discriminated by religion, caste, class, ethnicity and gender. Of these, religious differences have been the most pervasive, sparking communal violence in different parts of the region, subsequent to the brutal partition of colonial India into the two separate states of India and Pakistan. Religion became a mobilizing factor in the Pakistan army's genocide in Bangladesh in 1971, and the seeds of the present conflict in Sri Lanka were sown by the hegemonising of Sinhala Buddhist cultural and political power.

Overcoming the majority-minority divide and to make for an inclusive political governance has been a major challenge for most societies. But the spread-out effects of the religious divide is more pronounced in South Asia, since a majority status in one country is reversed in a neighbouring country, and minorities are held responsible for the actions of their co-religionists in the other country. For example, violence against Muslims in India following the demolition of the Babri Masjid instigated violence against Hindus in Bangladesh and Pakistan in 1992. Tamil demands in Sri Lanka for recognition of their language and a share in governance was rejected by the majority as a threat to national sovereignty. At such moments religion rather than geography, language or culture has been made into the arbiter of a common identity.

Even in the absence of violence, minority communities have been exposed to insecurities as the political discourse tends to reflect majoritarian interests. This has led to communities becoming compartmentalised, distancing themselves from state structures and deprived of development. Their alienation can also result in the loss of individual freedoms, because the state's failure to protect constitutional rights allows the community to impose its will in the name of religion and to negate individual rights. This is particularly marked in the reluctance of all states in South Asia to challenge community leaders who subordinate women to archaic customary or religious laws.

Asymmetries in the exercise of rights by minorities and their access to opportunities and resources for development have often been attributed to reasons of cultural historicity. But we need to examine how contemporary policy decisions and political behaviour have alienated or segregated communities, and inhibited their institutional reforms. We need to question why states in South Asia have been unable to comply with the promise made at the time of

Independence “to end poverty...to build a democratic nation,... and to create institutions which will ensure justice,”¹without differentiating citizens by religion, ethnicity, caste and gender.²

Concerned with the threat that existing asymmetries pose for peace in the region, for the practice of democratic and human rights values and for individual freedoms, South Asians for Human Rights (SAHR) has supported initiatives that break down barriers between communities and create conditions critical for citizenship. In order to identify the sources of discrimination and bring it to public knowledge, SAHR in November 2003 set up a South Asian Commission for the Rights of Minorities (SAPCROM) with leading human rights defenders in the region. They visited five countries and reported on the current situation of religious, ethnic and caste-based minorities in Bangladesh, India, Nepal, Pakistan and Sri Lanka. Their findings published under the title of *Including the Excluded* (2006), traced the constitutional and legal position of minorities (whether they were recognized as such or not), and related these to their situation on the ground.

Overt constitutional changes introduced to prioritize the dominant religion or support sectarian causes have sanctioned discriminatory legislation, policies and practice. In Pakistan the introduction of Islamic provisions in the constitution has denied the Ahmadiyas the right to freedom of belief, curtailed freedom of speech in the name of blasphemy and sanctioned violence against women for exercising free choice. In Sri Lanka, constitutional guarantees have hegemonised Sinhala Buddhism. In Bangladesh, where a liberation war promoted secular ideals, successive military rulers replaced the constitutional principle of secularism with “Islamic justice”. India maintains a secular constitution but communalization of politics has allowed for discrimination in legal rights which deprives communities of opportunities in development and affects the rights women of minority communities in particular.

In continuation of its concerns, SAHR invited four scholars to examine in greater detail the sources of marginalization of religious minorities as a result of state interventions in legislation, policies and programmes, some deliberately, but all inevitably furthering majoritarian interests and hegemonies. The authors of these accounts have given us insights into how the political systems, whether electoral or authoritarian, have promoted conditions for majoritarian domination and exclusion of others. Common features in the four countries discussed in this volume suggest how the system of governance has promoted, in some cases overtly, the interests of the majority community and in doing so has marginalised minorities from equal opportunities for advancement, decision making and participation. For example, education is a marker of differences; lack of opportunities has led to a disproportionate representation of minorities in public office, in accessing education and other services and even in formal employment. Census readings have been blamed in all the countries for under counts which results in minorities appearing numerically weak. The content of educational texts and media has, by over-emphasizing the culture of majority communities and neglect of the other, led

¹ Pandit Jawaharlal Nehru's speech on 14 August 1947.

² Mr Muhammad Ali Jinnah's address on Pakistan's Independence Day.

to ignorance and intolerance. A distorted presentation of history and minority profiling has fuelled a communal political discourse.

The observations on the prevailing areas of discrimination and their causes presented here are not off the mark. Indeed, they are corroborated by evidence and data in official enquiries. The chapter on India relies heavily on the Justice Sachar Commission Report (2006), and the Mishra Commission Report (2007). The former gave a detailed breakdown on the situation of minorities in different states of India. The Bangladesh chapter quotes from the judicial petition that mapped the victimization of Hindu women and men in the 2001 elections to demonstrate the communalization of electoral politics. Pakistan has reverted to an overtly segregated system of representation, and in Sri Lanka intolerance of linguistic and ethnic identities has grown into a serious conflict and breakdown of peace. As one of the authors in this volume has admitted, “One is not born a minority, one is turned into one through a systematic process.”

These studies demonstrate that minoritisation is more than a reflection of numerical weakness. It is a construct of power asymmetry and isolation from the state systems of administration, political decision making and justice. If our societies are to nurture respect and tolerance there is a need for creating a space for communication and participation without prejudice. Various recommendations have been made for state interventions that would provide constitutional guarantees, set up ongoing monitoring commissions to identify areas of reform of education systems, provide protection against injustice and make participation in decision making inclusive. These recommendations need to be taken seriously in the interests of maintaining regional peace in South Asia and protecting the rights of all citizens in each country in South Asia.

BANGLADESH

INTRODUCTION

Bangladesh is perhaps the only country in the world which was born out of genocide, because of its quest and struggle to establish democracy and democratic rights of its people. With its seeds in the Language Movement of 1952, the country's liberation movement was both democratic and secular in its essence. It was democratic since the East Bengalis were protesting the imposition of Urdu as the state language of Pakistan by the ruling elite which was the language of a minority in West Pakistan. Urdu was taken as a symbol of hegemony, while the spirit was to establish the right of different communities to their own languages. It was secular because it did not use religion as a tool of nation building. Religion in the name of Islam was being used as the nationalist tool to establish the hegemony of the West Pakistani ruling elite. Pakistan was premised on the Two Nation theory, which assumed that nations could be constituted on the basis of religious identities; hence Hindus and Muslims constituted two separate nations. The name Pakistan literally translated itself into the land of the *pure*, where Muslims constituted the pure. Other religious communities inter alia became the *other* and *inferior*.

Democracy as understood and practiced in post-colonial states has its limits with both its inclusions and exclusions. In principle however, a truly democratic society provides space to its citizens to exercise their rights, and place their demands as active citizens and members of society. In other words, systemic enabling factors are supposedly in place to seek remedies for injustices.

This paper attempts to examine the state of religious minorities in Bangladesh. State policies have been examined to explore the sources of parity/discrimination. Statements and policies are guidelines, while the actual implementation is a matter of politics and governance that the state embodies at different periods. Guidelines nonetheless are important since they provide the state with an identity that it wears; to the citizens they provide an instrument through which the state can be made accountable for violations of basic principles and policies. In this context, Bangladesh has come a long way starting with a democratic secular promise but increasingly acquiring non-democratic and religious overtones resulting in the creation of politicized minorities, both ethnic and religious, with spaces increasingly shrinking for them. The paper however limits itself to the *processes* of the creation and *plight* of the religious minorities in Bangladesh. The term *process* is emphasized here for it is contended that one is not

born a minority, but rather turned into one through a systemic and systematic process. Policies and politics interplay in this process and create their own dynamics with varied implications.

Methodology: The paper is primarily based on available secondary sources such as internet and books. Newspaper reports have also been scanned. Interviews of human rights activists and members of minority communities were taken. Observation methods have been used. The lack of disaggregated data and explicit policies made it extremely difficult to come out with policy statements. The paper therefore is heavily dependent upon the author's perceptions and analyses. Efforts however have been made to retain objectivity by constantly referring to numbers, statements and laws where available.

1. Politics of Religious Minority Creation in Bangladesh

The term minority is loaded with political, social, economic, legal, linguistic and religious implications. Minorities may be defined in terms of numbers or access/lack of access to power. The qualifier of being *different* from the rest that constitutes the majority is also a measure of minority. Within the framework of a modern state the dichotomies appear as opposing binaries. This binary is a creation of state politics often dictated by the requisites of seeking legitimacy by the unconstitutional regimes of which Bangladesh has had its share. The military turned civilian regimes have amended the Constitution (discussed later) at its will to appeal to the majority community. The demands of majoritarian democracy require the approval of the majority. Arguably if the political culture of the society at large has not tuned itself, either due to political designs or its own limitations because of socio-economic and religious factors to the demands of a pluralist system, the use of varied symbols of nationhood appealing to the majority have and would continue to be used by the political elite. In the process the 'other' is being created and negated. The following is an examination of the sources and process.

State Politics: This paper identifies the political process and the political parties as a major source of discrimination against minorities. It is argued that by adopting a course of majoritarian politics, the political parties made compromises overtly and covertly that created a culture of majoritarianism, intolerance and discrimination towards the marginalized sections of community, despite their rhetoric to the contrary.

Soon after its birth the political history and politics of Bangladesh found itself within the twists and turns of majoritarian politics. As stated earlier the birth of Bangladesh was premised on a secular and democratic ethos. Paragraph 2 of the preamble of the first constitution of Bangladesh which was adopted on November 4, 1972 accepted 'nationalism', 'socialism', 'democracy' and secularism as state principles; Article 8 Clause 1 reiterated these. Secularism in the context of Bangladesh did not imply the absence of religion, as is often interpreted by its opponents. Sheikh Mujibur Rahman, the Father of the Nation, made it quite explicit in his following statement:

Secularism does not mean absence of religion. Hindus will observe their religion; Muslims will observe their religion; Christians will observe their religion. No one will be allowed to interfere in others'

*religions – the people of Bengal do not want any interference in religious matters. Religion cannot be used for political ends ...*¹

In order to implement the above, Article 12 stated: The principle of secularism shall be realized by the elimination of:

- Communalism in all its forms;
- The granting by the state of political status in favour of any religion;
- The abuse of religion for political purposes;
- Any discrimination against or persecution of persons practicing a particular religion.²

Article 38 para 2 further stated: No person shall have the right to form or be a member or otherwise take part in the activities of, any communal or other association or union which in the name or on the basis of any religion has for its object, or pursues a political purpose.³

While the constitution did provide the basis for creating a non-communal state in the religious sphere, it is argued that it was not a non-hegemonic constitution. Article 1 Part 1 declared Bangladesh to be a unitary state. Through Article 3 Part 1, Bengali was adopted as the state language and Article 6 Part 1 declared that the citizens of Bangladesh were to be known as Bengalis.

Article 9 defined Bengali nationalism. According to the constitution it was premised on the unity and solidarity of the Bengali nation, which derived its identity from its language and culture ...⁴ The imposition of the above clauses denied recognition to the varied cultural communities in Bangladesh, who were culturally and linguistically non-Bengali. Bangladesh is home to around 45 ethnic communities. The constitution thus gave birth to ethnic minorities. In other words, Bangladesh at its birth reproduced the politics of majoritarianism/domination that it sought to fight during the Pakistan period.

One may argue that the above principles in the Constitution were a logical outcome of the spirit of the liberation war of Bangladesh which was premised on Bengali nationalism; but it is argued here that through the insertion of the above clauses, a nation born out of genocide and a history of democratic movements indeed failed to move forward with a vision of libertarian principles. The Awami League (AL), the party that led the liberation movement, resorted to the politics of majoritarian democracy; the insurgency in the Chittagong Hill Tracts (CHT) was an outcome of this.

It is submitted here that the hegemonies implicit in the constitution and the turns that state politics took paved the way for hegemonies in varied forms to take roots. The military takeover

¹ Government of Bangladesh, Parliament Debates, 12.10.1972, p.20.

² Government of the People's Republic of Bangladesh, The Constitution of Bangladesh, 1972, p.5.

³ *Ibid*, p.13.

⁴ *Ibid*, p.20.

following the political changes in August 1975 when the Father of the Nation along with his entire family (save two daughters, who were abroad) was assassinated changed the very rubric and garb of the state and its politics. The coup⁵ was declared in the name of the Islamic Republic of Bangladesh. However Khondokar Mushtaque Ahmed, a cabinet member of the Mujib regime, who was appointed President by the coup leaders made his first public address on 15 August 1975 in the name of the Peoples' Republic of Bangladesh, although it was punctuated with Islamic expressions. Nonetheless, there were enough warnings within the system to suggest the direction that Bangladesh was heading towards. Following a number of coups Major General Ziaur Rahman emerged at the helm of power. Islamic ideals were incorporated into the constitution. By the proclamation of Order No.1 of 1977, "Bismillahir-Rahmanir Rahim" (In the name of Allah, the Beneficent, the Merciful) was inserted at the beginning of the constitution, before the preamble. Through the same proclamation Article 8, Clause 1 was substituted by:

*"The principle of absolute trust and faith in the Almighty Allah, nationalism, democracy and socialism meaning economic and social justice, together with the principles derived from them ... shall constitute the fundamental principles of state policy."*⁶

Thus the principle of secularism was dropped from the constitution. Article 12, through which communal political parties were banned in Bangladesh, was also dropped, as was Article 9 which stressed the lingual and cultural unity of Bengali nationalism. Through Article 6 Clause 2 the citizens of Bangladesh were to be known as Bangladeshis in place of Bengalis. These changes were given effect through the Fifth Amendment to the constitution on 5 April 1977. From Bengali nationalism the state moved towards Bangladeshi nationalism based on race, the war of independence, the Bengali language, culture, religion, land and economy. Islam being the religion of the majority was incorporated as an element of Bangladeshi nationalism. Critics suggest that Ziaur Rahman desecularised the constitution under pressure from Saudi Arabia, Pakistan and other Muslim countries.⁷

Ziaur Rahman was assassinated by a group of military officers in May 1981. General Ershad, the then chief of army assumed power in March 1982. The state moved towards an overt Islamization policy. Through the Eighth Amendment to the constitution on 7 June 1988, Islam was declared as the state religion of Bangladesh (Article 2 Clause A) with the provision that other religions may be practiced in peace and harmony.⁸

The above changes were brought about by successive political regimes to consolidate their power base by appealing to the sentiments of the majority. This not only transformed the political identity of the state but also created internal polarization. Apart from the political divide between the Bengali versus Bangladeshi, the foremost and harmful impact was the creation of religious minorities. State's identification with a particular religion privileged that

⁵ The coup leaders used Islam to secure and to a certain extent legitimize their position.

⁶ Government of the Peoples' Republic of Bangladesh, The Constitution of Bangladesh, 1994, p.10.

⁷ Satish Kumar, How did Bangladesh become an epicenter of Islamic terrorism, IPCSS, Delhi, Issue no, 1716, 27.4.2005.

⁸ *Ibid*, p.6.

religious community while the rest were *minoritised*. The dichotomy between the major and the minor made its way and the ensuing changes were in sharp contradiction to the constitutional principle of equality of all citizens.

The process of Islamization of the society for political ends had far-reaching consequences. In fact it was not Islamization but rather communalization of politics and society to serve the vested interests of a particular group, which in this instance first turned out to be a faction within the military who wanted to hold on to power; and later the rightist forces i.e., the Jamaat-e-Islam (JeI), which had opposed the liberation of Bangladesh. Elements within them had collaborated with the Pakistan army to carry on the genocide in occupied Bangladesh in 1971. The state witnessed the gradual erosion of secular forces; even secular parties like the Awami League made frequent use of religion in its pronouncements and dress codes, especially during the election campaigns of women candidates. The Left parties also resorted to Islamic practices in their functions and election campaigning. During the period of Ershad the weekly holiday was changed from 'Sunday' to 'Friday', which is a day of special prayer and congregation for Muslims. The name of Red Cross was changed to the Red Crescent, the symbol of Muslims.

There is no denying that both the AL and the Bangladesh Nationalist Party (BNP), the two major political parties in Bangladesh made strategic alliances with the Jamaat for electoral gains. In the anti-Ershad movement the Jamaat came to the forefront. It made an alliance with the AL and was part of the popular movement that ousted Ershad from power.

However, the BNP firmly consolidated Jamaat's power by making it a coalition partner in the government during its term in power from 2001-2006. The period saw an escalation of religio-centered militancy which was trying to impose an extremist version of Islam. Attempts at having a 'puritan' version of Islam by extremist forces have resulted in a shrinking of spaces for a human rights-based culture to evolve. Tensions continue to prevail regarding the Ahmadiya community, a Muslim sect that is regarded as non-Muslim by the hardliners. Investigative reports show collusion and tacit agreement between some officials of the BNP-led Four Party Alliance and the agitation movement. While the country continued facing threats including armed threats from the extremists, a minister of the then regime called the threat an invention of the media. The major religion-based militant outfits in Bangladesh are: Harakat ul-Jihad-i-Islami (HuJI), Jagrata Muslim Janata Bangladesh (J.M.J.B.), Jama'atul Mujahedin Bangladesh (JMB) whose objective is to turn Bangladesh into an 'Islamic' state (for details see annex 1).

While there is little popular support for these militant forces, it is also equally true that like many other societies in Bangladesh, one can observe a growing influence of religion in public discourses and practices. Globalization, its discontents and alienations, failure of the modern state to deliver, use of religion by mainstream parties, overt and covert corruption at various levels, migration, failure of the education system and the impact of petro-dollars are factors commonly attributed to the rise of religiosity among the people. But it also needs to be emphasized that religiosity cannot be equated with communalism. Muslims in East Bengal were always religious, there was no conflict between the multiplicity of identities i.e. Muslim

and Bengali. It is the political forces that have turned the *and* into *versus* and Bangladesh today is contending with this. The situation indeed is ominous.

The following table shows the numerical position of religious groups in Bangladesh.

Table 1: Population by Religion (%)⁹

	Census 1981	Census 1991	Census 2001
Islam	86.65	88.31	89.58
Hinduism	12.13	10.52	9.34
Buddhism	0.62	0.58	0.62
Christianity	0.31	0.33	0.31
Others	0.29	0.26	0.15

The table shows the gradual decline of the major religious minority group, i.e. Hindus, in Bangladesh. The above discussion strongly suggests the use of religion in state politics. This obviously has its consequences in other arenas, both public and private. The paper now turns to an examination of the state policies and the location of religious minorities in Bangladesh.

2. State Obligations under International and National Laws: Policies and Practices

Regarding minority rights there is an obvious incongruity between the stipulated and the actual. The principle of non-discrimination is recognized in all international human rights instruments. The United Nations (UN) Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities makes it obligatory on the part of the states to encourage conditions for the promotion of communitarian identity. The International Labour Office (ILO) Convention 169 of 1989 concerning Indigenous and Tribal Peoples in Independent Countries calls for the recognition of collective land rights and rights over natural resources and rights in connection with the removal and relocation from lands of the indigenous and tribal peoples. The Convention on the Elimination of all Forms of Racial Discrimination (CERD) addresses the issue of racial and religious discrimination more specifically. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) also makes it mandatory that all kinds of discrimination be eliminated against women. This is the only international convention which specifically deals with women's rights and issues and implies that women of all communities be treated without any discrimination. Bangladesh as a signatory to the above instruments is obligated to protect cultural identities, religious freedom, women's rights and land rights of its minority communities.

The constitution at least in three articles unequivocally guarantees equal rights of all citizens. Article 27 states that all citizens are equal before the law and are entitled to equal protection of the law; Article 28 Clause 1 stipulates that state shall not discriminate against any citizen

⁹ Sample Vital Registration System (SVRS) 2004, Bangladesh Bureau of Statistics, Dhaka.

on grounds of religion, race, caste, sex, or place of birth; Article 29 Clause 2 further guarantees that no citizen shall on grounds of religion, race, caste, sex or place of birth be ineligible for, or discriminated against, in respect of any employment or office in the service of the republic. These constitutional provisions are strongly worded guarantees of religious freedom, beliefs and practices, despite the constitutional provision making Islam the state religion. The Constitution further provides the right to profess, practice, or propagate, subject to law, public order and morality, the religion of one's choice. It also states that every religious community or denomination has the right to establish, maintain, and manage its religious institutions.

Although not legally enforceable, the change in the constitution has been cited by minority rights advocates as having diminished the status of non-Muslims as equal citizens of the state. While the right to propagate the religion of one's choice is guaranteed by the Constitution, it has been alleged that local authorities and community members often object to efforts at conversion of persons from Islam. The attacks on the Ahmadiya community and the move to term them as non-Muslims is an outcome of the Islamization process of the state which has taken the form of the search for a puritan version of Islam. While the Government statements supported freedom of religion, attacks on religious and ethnic minorities continued for reasons alluded to earlier. An illustration of this may be found in the following table.

Table 2: Reported Attacks on Temples and Land Grabbing, 2006¹⁰

Division	Attacks on Temples	Land Grabbing
Dhaka	7	14
Chittagong	6	9
Rajshahi	13	14
Khulna	10	8
Barisal	5	6
Sylhet	2	3
Total	43	54

Amnesty International (AI) reported in December 2001 that Hindus - who now make up less than 10% of Bangladesh's population of 130 million - in particular have come under attack. Hindu places of worship have been ransacked, villages destroyed and scores of Hindu women are reported to have been raped.¹¹ The then government classified the events into three categories. According to the Interior Minister, some are conspiratorial, others are based on rumours, and some are partially true. The last class has two kinds - personal jealousy and political.¹² According to the *Annual Report of the United States Commission on International Religious Freedom*, "Bangladesh's high levels of political violence and instability have provided opportunities for religious and other extremists to expand their influence".¹³ The Bangladesh government stated that whatever

¹⁰ *Rights of Religious Minorities*, ASK Research Unit < http://www.askbd.org/web/?page_id=501 > [Accessed 5 May 2009]

¹¹ Amnesty International, "Bangladesh: Attacks on members of the Hindu majority." December 2001

¹² See Editorial, Sangbad, 17.10.2003

¹³ Nexis Library Information, 1990-99. "Bangladesh: Rise of religious fundamentalist groups and nature of their relationship with the authorities (2005-2006)." < <http://www.unhcr.org/refworld/country,,QUERYRESPONSE,BGD,,45f146f519,o.html> > [Accessed 6 April 2009]

little repressions were committed on minority communities in one or two isolated cases were basically political and not communal. By making such assertions the government and leaders of the ruling parties wanted to make the point there was no persecution on religious grounds, i.e. if a Hindu was persecuted it was not because he was a Hindu but because he was a political worker (of the AL). But brushing off events of minority repressions saying that those were consequences of political revenge committed by a handful of political workers is simply not done. “Attacks on minority communities including Hindus, Christians, Ahmadis and tribal people in the CHT and elsewhere were carried out with apparent impunity.”¹⁴

In 2006, the Human Rights Congress for Bangladesh Minorities filed a writ before the Bangladesh High Court for the protection of minorities. Despite the favourable ruling from the country’s highest court, the government is yet to implement the court order. Statistics shows that minorities comprised 38% of the population in 1951 compared to about 12% in 2006.

In October 2006, the national Government, led by the BNP in a coalition with Islamist parties JeI and Islami Okiyya Jote (IOJ), stepped down from power in favour of a constitutionally-mandated caretaker government charged with preparing the country for national elections in January 2007. However, in January 2007, the then President Iajuddin Ahmed announced a state of emergency to pre-empt widespread fears of a violent, one-sided election, and the next day, a new, non-partisan caretaker government was sworn into office with the promise to eradicate Islamic extremism and political corruption. Of the ten advisers in the new government, one was Christian. In the 300-seat Parliament that was dissolved in October 2006, religious minorities held eight seats.

The caretaker government led by Chief Advisor Fakhruddin Ahmed took steps to rid the government of corruption and return Bangladesh to democracy. The council of advisers of the Government approved the National Human Rights Commission Ordinance 2007. The cabinet approved the ordinance to set up the long-awaited National Human Rights Commission (NHRC), which can investigate human rights violations. The steps were taken with a view to strengthening the institutional framework for the protection of human rights. The Awami League-led grand alliance of 14 parties (Mohajote) that came to power following the elections held on 29 December 2008 should have adopted the Ordinance by the Parliament, but this has yet to come about. The HRC has been asked to carry on, but it has not been given any structure. One of its members is from the Buddhist Chakma community. While this is a positive step towards inclusive policies, its efficacy would depend upon its performance and also the effectiveness and objectivity with which its members perform. Nonetheless, it is expected that the NHRC in Bangladesh will help to investigate, publicize, and bring to the courts all categories of human rights abuses, including violence and discrimination against religious minorities, in accordance with international standards for such organizations i.e. independence, adequate funding, a representative character, and a broad mandate that includes freedom of thought, conscience, and religion or belief.

¹⁴ Amnesty International Report 2006 Bangladesh. May 23, 2006. <<http://web.amnesty.org/report2006/bgd-summary-eng#top>> [Accessed 6 April 2009]

3. The Electoral System and Electoral Violence

The electoral system which was supposed to pave way for a representative system where individuals irrespective of their ethnic or religious identities could exercise their rights as active citizens ironically has turned into a source of persecution for the religious minorities. Democracy, a much laudable ideal and principle has in effect turned into an instrument of oppression upon the minorities. Based upon the principle of majority rule, politics has turned into a game of numbers. Individuals and communities instead of being viewed as human beings are looked upon as 'vote banks' by political parties. Violence was inflicted upon them by the political parties and their supporters in a bid to either 'win' over the 'vote banks' or stop them from exercising their voting rights through coercion and violence. It has been argued that political behaviour and community size is highly significant in indicating the election result. In a first-past-the post British style parliamentary system, 30-35% of the votes are enough to win a seat in multi-cornered contests, and a 40% vote can easily translate into 50-60% of legislative seats. Minorities constitute a little more than 11% of electorate in Bangladesh. In other words, they constitute more than 20% of the electorate in 50 of 300 parliamentary constituencies in the country. Moreover in 197 constituencies minorities constituted 10-50% of electorate and in another six more than 50%. According to conventional wisdom the majority community does not vote as a bloc, but the minority does. This voting behaviour makes minorities an important factor in determining election results in nearly 20% of parliamentary constituencies at present. Purely in an electoral sense, the political system of Bangladesh, to an extent, gravitates towards the minority. The demographic composition therefore is important. The higher the number of minorities in a constituency the greater would be the stake of political parties within the minority constituency.¹⁵

The minorities, especially the Hindus became victims of majoritarian violence during the October 2001 parliamentary elections. The minority community, specially the Hindu community was targeted. The reasons for this violence are not limited to communal factors; other related factors were political and structural. The Hindus are regarded as vote banks of the AL, so they were targeted by supporters of the BNP and its alliance partners. In some instances AL supporters had also attacked them thinking that the local Hindus did not vote for them as was *expected* of them. In some instances terrorists took advantage of the situation and indulged in extortion and looting of property.¹⁶

The violence started fifteen days prior to the holding of elections of October 1 and continued till about 27 October, which ruined the Durga Puja, the most important religious festival of the Hindu community in Bengal. From the scanning of ten dailies (Prothom Alo, Jonokontho, Jugantor, Sangbad, Banglabazar, Inqilab, Dinkal, The Daily Star, Ittefaq and Bhorer Kagoj) it was observed that between 15 September till 27 October, about 330 reports of violence against the Hindu community were reported in these newspapers. These included cases of rape, killing, physical torture, plunder, damage of property, bomb throwing, arson and extortion.

¹⁵ Mohammad Rafi, *Can We Get Along? An Account of Communal Relationship in Bangladesh*. Panjeree Publications Ltd, Dhaka, 2005, pp. 182-183.

¹⁶ *Star*, Weekend Magazine, 26.10., 2001, Dhaka, p.16.

After the 8th Parliamentary elections, AI reported in December 2001: “Hindus in Bangladesh have tended to vote for the AL. They have therefore been the target of a political backlash by supporters of parties opposing the AL.” The Amnesty report continued: “Human rights organizations in Bangladesh believe over 100 women have been subjected to rape. Reports persistently allege that the perpetrators have been mainly members of the BNP and its coalition partner Jamaat-e-Islami.”¹⁷

The intimidation of the minorities which had begun before the election became worse afterwards. “The ASK (Ain O’ Salish Kendra) petition of 2001 stated that since announcement of election schedule for the eighth parliament, religious minorities in the country had come under various threats, attacks and persecution. Their properties were looted and women and children were raped. Excepting a disciplinary action against a police superintendent in Bhola, and few arrests of alleged attackers in some places, the government so far took no measures to ensure safety of religious minorities.”¹⁸ The tables below illustrate the point.

Table 3¹⁹

Number Time period (2001)	<i>Assault</i>	<i>Threat</i>	<i>Physical torture</i>	Looting	<i>Break- ing and torching</i>	<i>Extor- tion</i>	<i>Explo- sions</i>	<i>Other</i>	<i>Total</i>
15-30 Sept	21	52	24	11	19	11	4	22	164
1-15 Oct	38	42	41	37	54	21	3	10	246
16-27 Oct	32	16	29	39	57	0	2	13	203
Total	91	110	94	87	130	0	9	45	613
Indigenous People	3	9	1	0	1	0	0	1	-
Christians	1	-	-	-	0	-	-	-	-

Table 4²⁰

Period (2001)	<i>Type of torture</i>				
	<i>Murder</i>	<i>Rape</i>	<i>Injury</i>	<i>Sexual Harassment</i>	<i>Kidnapping</i>
15-30 Sept	5	4	110	6	1
1-15 Oct	4	27	350	16	12
16-27 Oct	8	30	206	42	1
Total	17	61	666	64	13

¹⁷ Amnesty International, December 2001.

¹⁸ *Bangladesh: Government asked to report on minority attacks by High Court* <[http://www.wluml.org/english/newsfulltxt.shtml?cmd\[157\]=x-157-3409](http://www.wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-3409)> [Accessed 15 March 2009]

¹⁹ Samina Lutfa & Shamima Akhtar, “Shongbadpatra Porjalochona: Hindu Shomprodaer Upor Shamprotik Shohingshota”, *Bulletin*, Dhaka, ASK, December 2001, p.8.

²⁰ *Ibid*, p.9.

Table 5²¹

Period (2001)	Place of assault			
	<i>Home</i>	<i>Business</i>	<i>Temple</i>	<i>Others</i>
15-30 Sept	61	25	5	180
1-15 Oct	611	91	28	15
16-27 Oct	291	32	42	1
Total	963	148	70	196

Hindus were mostly affected in 57 districts. The highest incidents took place in Barisal where there were 26 incidents of violence, in Bagerhat 21 incidents, Bhola 17 incidents, Rajshahi 13 and Faridpur 12. The division-wise occurrence of violence is however a little different with the highest taking place in the Dhaka division (see table 6 below).

Table 6²²

Division	<i>Time (2001)</i>			
	<i>15-30 Sept</i>	<i>1-15 Oct</i>	<i>16-27 Oct</i>	<i>Total</i>
Dhaka	20	34	29	83
Chittagong	18	17	11	46
Rajshahi	9	19	36	64
Khulna	20	26	21	67
Barisal	13	32	18	63
Sylhet	0	3	4	7
Total	80	131	119	330

²¹ *Ibid*, p. 9

²² *Ibid*, p. 7

Some of the newspaper reports on the acts of violence are given below to capture the plight and horror of the situation for the Hindu community.

Fifteen year old Purnima Rani Shil was gang-raped by 25-30 men. These men attacked her house at night in East Delua village in Ullahpura thana Sirajganj on October 8. They beat up her parents mercilessly when they tried to stop these men. Purnima was taken to a nearby place and gang-raped. Her unconscious body was rescued after two hours. Her family members were kept under lock and key on October 9 throughout the whole day to make sure that the incident did not get any publicity. When the members of the family went to the Ullahpura thana, the OC refused to register the rape case, instead attempted to record it as a case of past animosity regarding a land dispute. The Ghatak Dalal Nirmul Committee brought Purnima and her parents to Dhaka where she herself and her family members gave a press conference in a local hotel. She also alleged that she even recognized some of the attackers as belonging to the BNP.²³

On Friday October 19, a group of young men entered a temple in old Dhaka and ate beef and roti (bread) within the premises of the temple. Then they hung a big bone of a cow on the roof of the temple. The Hindus of the area complained that this was the first time such an act of violation and humiliation had taken place within a temple. The temple authorities complained to the police and a general dairy (GD) was filed. Later police were deployed in the area.²⁴

A group of 14/15 people wearing masks attacked a Hindu family on October 7 in Fulhar village, Rajapur, Barisal. They wounded the inmates of the house, including old men, women and children by beating them mercilessly. They took valuables worth one lakh taka (about US\$ 1,438). Before leaving they asked the inmates to arrange for another one lakh taka, else their son, an AL activist, would be killed.²⁵

The insecurity of a community is most inextricably linked to the insecurity of its women who become the primary targets of attack. Women being the symbols of culture and honour are the softest targets to hurt the 'other'. An attack upon the women is regarded as an attack upon the community. The home where the private is located and the women reside is the spiritual, which as Partha Chatterjee²⁶ puts it, the Indian nationalists believed even the colonial power with all its might could not conquer; is so often and so systematically trampled by the state mechanisms, yet arguably Hindus in Bangladesh are equal citizens of an independent country. The minority thus continues to live a life of violence. A major consequence of this life of violence is the outmigration of the Hindu community as illustrated in Table 7.

²³ The Bangladesh Observer, 21.1.2001.

²⁴ Jugantar, 21.10.2001.

²⁵ Ittefaq, 11.10.2001.

²⁶ Partha Chatterjee, *The Nationalist Resolution of the Women's Question*, in Kumkum Sangari and Sudesh Vaid ed. *Recasting Women Essays in Colonial History*, Kali for Women, Delhi, 1989, pp. 233-253.

Table 7: Demographic Changes by Religion

Census Year	Muslim	Hindu	Buddhist	Christian	Others
1901	66.1	33.0	0.9
1911	67.2	31.5	1.3
1921	68.1	30.6	1.3
1931	69.5	29.4	...	0.2	1.0
1941	70.3	28.0	...	0.1	1.6
1951	76.9	22.0	0.7	0.3	0.1
1961	80.4	18.5	0.7	0.3	0.1
1974	85.4	13.5	0.6	0.3	0.2
1981	86.7	12.1	0.6	0.3	0.3
1991	88.3	10.5	0.6	0.3	0.3

Source: BBS Population Report, 1991, *Ct from, Shishir Moral, Rights of Religious Minorities, in Hameeda Hossain (ed). Human Rights Bangladesh, 2000, Dhaka, Ain 'O Salish Kendro, 2001, pp. 160.*

4. Representation in the Public Sphere

The public sphere is a broad canvass. The visibility and effective participation of a community in this sphere is critical for their existence as citizens of a state, protection of their rights and security. For our purposes the public domain is inclusive not only of the legislature but also the government administrative sector. These are domains of major exclusions and inclusions. It is important to note that policy guidelines may not be reflective of the actual situation. It is well known that policies are often couched in the most equitable terms; what is critical is to examine the system and the politics of the system, if these provide the space for the stated policies to be translated into practices. It has been stated that the Bangladesh Constitution provides equal rights to all citizens irrespective of religion, sex, caste or place of birth. But as discussed below the system itself allows for inequities to creep in. For instance the institution of majoritarian democracy does not leave much voice for the religious minorities in the national parliament, the emblem of peoples' power and representation. It is understandable that within the present parameters of the Bangladesh electoral system and state of polarized politics, in the absence of any affirmative actions, there is hardly any scope for a meaningful representation of the minorities in the parliament. The parliament is a 300 member body. To ensure women representation in the parliament the 1972 Constitution reserved 15 seats for 10 years to be nominated by the elected members of the parliament. In the second parliament in 1979 the reserved seats for women increased from 15 to 30. This provision expired in 1991. Later on the number of reserved seats for women was increased to 45.

Table 8: Elected Religious Minority Representatives in Parliament

Year of election	Total Members in the parliament	Minority members	Percentage of existing religious minorities	Remarks
1 st parliament, 1973	300 +15	12(3.8%)	0.0000823%	
2 nd parliament, 1979	300 +30	8(2.48%)	0.000055%	
3 rd parliament, 1986	300 +30	7(2.18%)	0.000048%	
4 th parliament, 1988	300 +30	4(1.28%)	0.000027%	
5 th parliament, 1991	300 +30	11(3.38%)	0.000075%	
6 th parliament, 1996 (15 th February)	300 +30			In this election no major political party except the BNP participated
7 th parliament, 1996	300 +30	14(4.28%)	0.000096%	
8 th parliament, 2001	300	8(2.67%)	0.000055%	
9 th parliament, 2008	300+45	14(4.67%)	0.000096%	All (Hindu) has been elected from the AL

Source: http://www.ecs.gov.bd/english/elec_par.php (accessed on 29.5.2009)

Among the women nominated members in 1973 there was only one woman from the minority nominated by the AL; in 1986 one minority woman member was nominated by the Jatiyo Party; in 1991 the BNP nominated one minority woman, in 1996 the AL nominated two minority women while the BNP nominated one, in 2008 the AL has nominated one minority woman. It may be observed that the numbers are dismal even within the nominated category, which itself is a minority category and the provision is there as an affirmative action. Security and equality of minority community does not depend only on majority community's goodwill and safeguards ensured in the constitution. Adequate representation of the minority communities with their voices being effectively heard and voiced in the highest law making body of the country is one of the critical paths for confidence building among the religious communities.

Minority representation in the various cabinets also echoes the above. 1991 is taken here as the baseline as Bangladesh has been holding parliamentary elections on a regular basis since then. In the 1991 cabinet formed by the BNP, out of a 48-member cabinet size only one member was from the minority community. In 1996 the AL regime had three minority members out of a cabinet size of 51; In 2001 the BNP had two minority members in a cabinet of 63.²⁷ The present AL cabinet (2009) of 35 members has three members from the minority communities.

²⁷ Shamsul Arefeen, *Bangladesher Nirbachon* (Elections of Bangladesh), Bangladesh Research and Publications, Dhaka, 2003, pp. 653-686.

In the government service sector the situation is quite dismal. Allegedly a silent discrimination prevails there. Lock-offs start at the entry levels. Minorities complain that after passing civil-service written examinations they are often dropped from consideration once their religious identity becomes known. The 24th Bangladesh Civil Service (BCS) examination, 2005 is a good instance of this. BCS examinations are the entrance point for individuals seeking government jobs. This is the executive body of the state. Selection boards for government services often lack minority representation. It has been alleged that non-Muslim candidates faced uncomfortable questions and rude behavior from the board members of Public Service Commission (PSC) during the viva voce. It has also been alleged that candidates who belong to the 'H Group' (i.e., Hindu) often hear such remarks that they would ultimately settle in India so there was no point in selecting them. These remarks question their personal integrity and sense of patriotism. More importantly it demonstrates the identity and form that the state is acquiring. According to a recent study the number of non-Muslim appointments (Hindu, Buddhist & Christian) in different public services is about 3197 (10.45% including 5% tribal quota).

In the 27th BCS in 2008, out of the general cadre of 940, a total of 68 individuals from the religious minorities were selected (65 Hindus and three Buddhists); and in the health cadre out of a total of 1477, 90 members from the religious community were selected (81 Hindus, three Christians and six Buddhists).

Table 9: Representation of religious minorities in the 27th BCS examinations²⁸

	General cadre	Health cadre
Percentage of existing Hindu population	6.91%	5.48%
Percentage of existing Buddhist population	0.32%	0.41%
Percentage of existing Christian population	-	0.20%
Percentage of religious minorities	6.91%	6.09%

Allegations prevail that they are not given assignments considered to be sensitive from a security point of view. In the Foreign Service, only two members from the minority community could be found who are now stationed in the Dhaka Headquarters. In the Bangladesh Army, there are a few non-Muslim commissioned officers three of whom were of the rank of Major Generals: two Hindus and one Chakma. There are two to three Brigadier Generals in the Army Medical Corps and Army Education Corps. The Jatiyo Rakkhi Bahini, a para-military force formed by the AL in the early 1970s and later disbanded after 1975 had a substantial number of soldiers from the Hindu community. They were later merged with the different units of the Bangladesh army. It may however be mentioned that the passing out oaths taken by the officers and soldiers are read out according to the religious scripture of the individual

²⁸ There is no disaggregated data. The above table has been compiled by the author by identifying the names and surnames from the gazette notification no. Shomo/Noni-10/2008-249, dated 10 November 2008, Government of People's Republic of Bangladesh, Ministry of Establishment

concerned. In the absence of disaggregated data and extreme sensitivity of the issue it was not possible to collect information about their location and size within the armed forces.

In the public sector, one notable exception is the government-owned Bangladesh Bank, which employed approximately 10 percent non-Muslims in its upper ranks. Employees are not required to disclose their religion, but it generally can be determined by a person's name.

5. The Legal System

It is a common observation that the legal system protects the rich and the dominant. Though the constitution guarantees equal rights to all citizens; the question remains if the marginalized especially those belonging to minority communities do get access to the state legal system. More importantly it needs to be probed if they have faith in the legal regime. Bangladesh has a uniform system of law for all communities except in personal laws pertaining to marriage, divorce, child custody and inheritance. The state has brought about reforms in Muslim personal laws but no such reforms have been made in the case of minority communities. Consequently minority women remain marginalized. They do not have inheritance rights nor are the marriages of the Hindu community registered. This goes against the principles of CEDAW to which Bangladesh is a signatory. The women's movements in Bangladesh have been campaigning for uniform family laws, but they have faced resistance from the orthodox sections of the minority community. It has been observed that while there is no bar to the minority community accessing legal aid, whether they get legal protection cannot be ascertained. In a survey carried out among 1,388 members of the Hindu community it was found that only 28.1% felt that if they filed a complaint the police would take action against the criminals, 42.21% felt that sometimes the police took action, while 19.68% responded that the police would never take action. The overarching perception is that it is not the state laws that regulate the law enforcing agencies rather it is the law of the political government that prevails. In the absence of rule of law there is no scope for the minority community to feel secure.²⁹

In the case of judicial services in Bangladesh there are 41 non-Muslim judges at the Lower Court level out of 1,000 judges and two judges in the Supreme Court out of 41 judges.³⁰ Since independence two judges from the Hindu community were elevated to the Appellate Division which is the highest judicial authority of Bangladesh. However it needs to be emphasized that while numbers are important the critical difference is made by the spirit of the law and the accessibility and faith of the community in the legal system.

²⁹ Ajay Dasgupta, *Bangladesher Gonotantra O Shonkhaloghuder Obostha* (Democracy in Bangladesh and the state of minorities), keynote paper presented at the Asiatic Society, Dhaka, 5 December 2008. The discussion was organized by the Committee for Communal Harmony.

³⁰ Judicial Service Association Directory, Dhaka, 2007.

Table: 10 : Representation of religious minorities in Administration³¹

Administrative Officers	Hindu (% of existing Hindu population)	Buddhist (% of existing Buddhist population)	Christian (% of existing Christian population)	Total Percentage of Religious minorities
Secretaries	4.48%	-	-	4.48%
Additional Secretaries	5.51%	-	-	5.51%
Joint Secretaries	12.13%	0.28%	0.86%	13.6%
Deputy Secretaries	11.0%,	0.07%,	0.15%	11.3%,
Sr. Asstt. Secretaries	7.51%	0.35%	-	8.15%
Asstt. Secretaries	3.84%	0.16%	0.49%	5.48%
Divisional Commissioners	-	-	-	-
Additional Divisional Commissioners	21.4%	-	-	21.4%

6. The Non-Governmental Sector

In the media and non-governmental sector the representation of the minority community is quite significant. This might be due to the competitive nature as well the image of inclusion that these institutions project. However, there are several non-governmental organisations (NGOs) working on minority rights in particular, which may observe a pro-active policy in recruitment. Then there are NGOs such as CCDB (Christian Commission for Development in Bangladesh) and CARITAS that employ a lot of Christians, since these are run by mainly by the Christian community. In the absence of disaggregated data and over 5,000 registered NGOs it is not possible to get an estimate of the numbers. However, most of the NGOs have programmes targeted at the marginalized and minority communities. The donor factor is a key variable here. There are however a number of Islamic NGOs as well, which are operating with assistance from Muslim countries.

7. Mass Media and Culture

There is no explicit media policy in the country. Article 39 of the Constitution of Bangladesh has guaranteed the right of every citizen to freedom of speech and expression; and freedom of press. Article 23 calls for the promotion and preservation of national culture. But like most of the post colonial states Bangladesh used the state-controlled radio and television as well as education to serve the regime interests in the name of national interest and culture. Following independence the AL regime made Bengali the basis of its nationalist model. It was both cultural and secular. The state consciously adopted policies to develop the Bengali language. It

³¹ <http://www.moestab.gov.bd/pmis/Forms/>

It may be noted that there is no disaggregated data, the table was compiled by the author by identifying their names and surnames.

was adopted as the state language and as the medium of instruction in all government academic institutions. The state thereby identified itself with a particular community, the Bengali community which included both ethnic Bengali Muslims as well as Hindus. Consequently the state-controlled mass media, radio and television discontinued the practice of Pakistan days of opening the programmes with recitations from the Holy Quran and substituted it with a programme of 'Speaking the Truth' based on secular ethics. Sheikh Mujib ur Rahman (Mujib) however discontinued this religious neutrality of the mass media. He adopted the policy of equal opportunity for all religions and ordered citations from the holy books of Islam, Hinduism, Buddhism and Christianity at the start of the broadcasts by the state radio and television. But the citations from the Hindu Holy Book and coverage of Hindu religious festivals created a backlash among the Muslims.

Mujib soon compromised and gradually moved towards a pacification of the sentiments of the majority Muslim community. Though there was no overt pressure by the people at large, it may be argued that Mujib wanted to offset the propaganda that Bangladesh was tilting towards India. Besides, post-independent war torn Bangladesh was in desperate need of economic aid and the Muslim countries were a potential source of this aid. Towards the end of his rule Mujib's speeches thus came to be marked with idioms and phrases peculiar to the Muslims only. For instance he frequently used Islamic words like Bismillah (in the name of God), Tawba (penitence), Inshallah (if God wishes). He even ended his speeches with Khuda Hafiz (God be your protector) instead of his usual Joy Bangla (glory to Bengal). On 28 March 1975, Mujib even revived the Islamic Academy (banned in 1972) and elevated it to a Foundation. His attendance at Islamic functions also became quite noticeable. Despite being a secular state, and Bengali adopted as the state language and national culture, the state was gradually moving towards the use of religious markers as political strategies. The politicization of religion had begun, and with it the stage was being set for the politicization of culture and education. Thus the process of alienation of the Hindu minorities was begun. Bangladesh was to be a Muslim majority and dominant state. This as discussed above was consolidated through Bangladeshi nationalism by the military turned civilian regimes of Bangladesh following the assassination of Mujib and the political change after August 15 1975. The adoption of this brand of nationalism turned the Bengali Hindu community into a religious minority.

Accordingly changes were brought about in the mass media, education sector and the Constitution to expedite and legalize the process of this new construction. The change was apparent first in the electronic media. The simultaneous recitals from the holy books of the different religions continued as before. But the time allotted to the reading from the Holy Quran (the Holy Book of the Muslims) increased from five minutes to fifteen minutes. While no religious citation was made at the closing of the programmes during the Mujib regime, the programmes now closed with recitations from the Quran only. Moreover, quotations from the Quran and Hadith (the Prophetic tradition) were now frequently broadcast between programmes.³²

³² For details see Amena Mohsin, *The Politics of Nationalism: The Case of Chittagong Hill Tracts, Bangladesh*, Dhaka, UPL, 1997.

In almost every government, semi-government, autonomous and academic institution there is a mosque for prayers, but there is no such facility for members of other religions. There are 325 major dailies in Bangladesh, out of which 305 are in Bengali and 20 in English. Many of the newspapers bring out a special page on Fridays since it is a holy day for Muslims. No such page is brought out on a weekly basis by any other news paper. However special pages are brought out on the religious occasions of the different religious communities. The newspapers have nine yearly holidays, three each for two Eids, the largest religious festivals of the Muslim community, and the balance three for Eid e Miladunnabi, the birthday of the Prophet Mohammad (pbuh)³³, Ashura and Shab e Barat. It may be noted that these are all Muslim festivals.

Journalists belonging to the minority community feel that they are always conscious of the fact that they are minorities. The perception that they always support a particular political party is always there despite their taking very critical positions on political and national issues. They have to earn their credibility which is not the case for their Muslim counterparts. Shamol Datta, the editor of the *Daily Bhorer Kagoj* pointed out that for the first time he as a member of a religious minority group (Hindu) could become the editor of a national daily. Before him no member from a minority religious community even dreamed of it. When he served as the diplomatic correspondent of the said paper he was not allowed into the premises of the Ministry of Foreign Affairs (MFA), though other diplomatic correspondents had access. He further pointed out that it took him two years to get his permanent accreditation card, which is not usually the case.³⁴ Anjan Roy another media personality pointed out that even though his TV channel ETV has a very secular vision he has found that while talking about religion in the program he anchors his views or quotes from Islam are not accepted with as much credibility as it is for his Muslim counterparts. He lost his paternal property in 1973 due to the Enemy Property Act; whenever he has tried to raise the issue of alienation of Hindu property with political analysts in his programme the 'we versus 'you' divide comes out quite strongly. He maintained that somehow he could never cross this 'you' boundary, though he strongly feels that this is his country.³⁵

There are 12 private satellite television stations: Terrestrial: BTV. Satellite: BTV-World, Channel-i, NTV, ATN Bangla, RTV, Channel 1, Bangla Vision, Boishaki TV, Islamic TV, Desh TV, ETV & Diganto TV. The "Islamic TV" is the first Islamic television station established in 2007 in Bangladesh. The owner of the channel is Said Iskandar, the younger brother of the former Prime Minister Khaleda Zia, the present Leader of the Opposition and Chairperson of the BNP. Diganto TV is a Jamaat-controlled channel which prescribes specific dress codes for women presenters. They are required to cover their heads and wear full sleeve coats, though strangely enough they also are expected to look very attractive and hence wear a lot of make up. Apart from the state-controlled radio station, there are three private radio stations.

³³ Peace be upon him (pbuh) is a phrase that practising Muslims often say after saying (or hearing) the name of a prophet of Islam.

³⁴ Personal interview with the author on 12.5.2009.

³⁵ Personal interview with the author on 18.5.2009

When asked if members of other religious communities had ever contemplated having a media channel of their own, this author was told that such a space or culture had never evolved in Bangladesh. It needs to be emphasized that a culture of silence is prevailing there. It is indeed difficult to suggest that a policy of discrimination exists in this respect, but the very fact that other religious communities do not think of it as a possible option speaks volumes about their sense of inequality. In the private radio and private satellite television there is regular recitation from the Holy Quran, while recitation from the minority religious books is quite casual. The state-owned Bangladesh Television however has citations from the different religious scriptures. The private channels broadcast Islamic programmes on a regular basis but none based on other religions.

One also has to factor in media politics here. The media needs to attract viewers and audiences. Talk shows including religious ones are rated; therefore it is not surprising that channels broadcast programmes appealing to the majority. The programmes indeed are critical indicators of societal moods and orientations, which as the above discussion suggests is increasingly becoming monolithic. The daily soaps also represent Muslim families, their cultures and values. This *re presentation* reproduces the ethos of the majority Muslim community. Media plays a critical role in nation building; while it represents opinions/issues it also has a role in formulating them. The role of the Cable News and Network (CNN) during the Gulf war, the Iraq crisis and on the Palestinian issue are important cases in point here. It may be argued that the Al Jazeera television network was set up to counter Western propaganda and give the other side of the story as well.

In view of the lack of an explicit media policy, it is the mainstream that gets represented while many voices remain unheard. Recently the private channels in some of their talk shows have brought in issues related to minorities, but these happen when a crisis or conflict regarding minority land or eviction takes place. While one cannot dismiss the importance of this projection at the same time one cannot overlook the facts that these remain *minority* issues, not part of the dominant discourse and debates, where the issues concerning the dominant are debated.

The Savar mausoleum is a symbol of respect for those who sacrificed their lives for the independence of Bangladesh. People of all religions took part in the country's liberation war. A mosque has been built at the memorial as a place of prayer for the Muslims. One may argue that this is a denial of the secular spirit of the liberation war and also of the sacrifices of the religious minorities.

Generally, the currency of a state has the emblem of famous people or places of that country. The Bangladesh currency carries images of various mosques but none of the other religious places of worship.

8. Education

The act of turning a human subject into the object of another's discourse is an act of erasure and dislocation. Representation is a political act, an act of domination and hegemony, and through this the represented loses the real self, the voice and above all her or his autonomy and identity. It distorts reality and creates a mental map that transforms, reduces and erases the object. The minorities within a modern state are constantly subject to the above through state mechanisms of homogenizing the population via language, culture and education. On the one hand it reduces, distorts and thereby marginalizes the minority communities so represented; on the other it creates the 'other', the subjugated subordinate minority. In this endeavour, culture, language, education all comes to play very hegemonic roles.³⁶

In the education sector the bias towards the majority community is evident. During the Pakistan period in the primary and middle stage of education (Class VI to VIII) Islamiat or religious education was made a compulsory subject. After independence the Education Ministry continued with the same policy. The Mujib government however set up an Education Commission in 1972 which submitted its interim report in May 1973. The Commission recommended the separation of religion from education. The report however, was submitted before public opinion on the issue was obtained through the distribution of questionnaires. The answer to the questionnaires showed that secular education was acceptable to about 21% of the most educated section of the people of Bangladesh, while 74.69% said that religious education should be an integral part of general education.³⁷ The commission's recommendations could not be implemented. Following the assassination of Mujib, education acquired an overt Islamic orientation. Islamiat was introduced from class I to VIII as a compulsory paper for Muslim students only and from class IX to X as an elective subject. Apart from Islamiat, children from other religious communities have the right to be taught in their own religion. However, some of them alleged that many government-employed religious teachers of minority religious groups were neither members of the religion they taught nor qualified to teach it. The government also introduced an Imam (Muslim religious teachers) Training Programme in 1979. Zia emphasized the need for religious education when he said:

... A Muslim has to live his/her personal, social, economic and international life in accordance with Islam from childhood to death.³⁸

The regime of H.M. Ershad (Army Chief of Staff who assumed power in a bloodless coup in 1982) furthered the process. In 1983, he wanted to introduce Arabic as a compulsory subject but he failed to do so due to opposition from students and political parties. He however succeeded in encouraging Madrassah (Islamic schools) education and put it on par with the corresponding level of general education. Today, there are an estimated 64,000 madrassahs in Bangladesh, divided into two categories. The Aliya madrassahs are run with government support and control.

³⁶ For details of this argument see, Imtiaz Ahmed & Amena Mohsin, *The Birth of Minority, State, Society and the Hindu Women of Bangladesh*, FOWSLA, Bangladesh Freedom Foundation, Dhaka, December, 2005, pp. 17-30.

³⁷ Talukdar Maniruzzaman, *Bangladesh Politics: Secular and Islamic Trends*, in Rafiuddin Ahmed ed. *Religion, Nationalism and Politics in Bangladesh*, New Delhi, South Asia Publishers, 1990, pp. 71-73.

³⁸ *Ibid*, p.70.

The Government of Bangladesh pays 80% of the salaries of their teachers and administrators as well as a considerable portion of their development expenditures. The 2000–01 budgets, for example, allocated TK 4.91 billion for salary support of the non-government madrassahs. The government also allocated considerable funds for the construction of 1,741 new madrassahs in the private sector. Successive governments encouraged the growth of madrasha education in the country. Over the last two decades, revenue expenditure per madrasha student was much more than for the students in secondary high schools. The number of madrassahs in Bangladesh is increasing at a phenomenal pace and so is the number of students. According to government published sources (Bangladesh Bureau of Educational Information and Statistics -- BANBEIS), during 1980–2000, the number of registered junior and high madrassahs increased by 271% compared to 185% growth of secondary schools. During the same period, the number of students in junior and high madrassahs increased by 818% compared to only 317% growth of secondary school students. Today, 30% of all secondary level students are from madrassahs and they are catching up fast. These statistics do not include thousands of unregistered Qawmi madrassahs (see next paragraph) all over the country.

Aliya students study for 15–16 years and are taught Arabic, religious theory and other Islamic subjects as well as English, mathematics, science and history. They prepare themselves for employment in government service, or for jobs in the private sector like any other college or university student. “A recent survey found that 32 percent of Bangladesh university teachers in the humanities and social sciences were graduates of *Aliya* madrassahs”³⁹ However, the Qawmi madrassahs remain outside the purview of the Bangladesh Madrassah Education Board. There are three basic characteristics of the *Qawmi* Madrassahs: 1. these madrassahs follow the *dars-i Nizami* system or a modified version of it, 2. they use subject-based system rather than grade-based system and therefore there is no clear ‘time-sequence’ attached to the education,⁴⁰ and 3. since *Qawmi* madrassahs are privately owned, there is a tendency to depend on local charity, commercial ventures, Bangladeshi Diaspora, and Muslim foundations based in the Middle East for funding. The impact of these characteristics are critical as the students of *Qawmi* Madrasahs end up acquiring an education with a minimum level of quality and almost zero prospect in the job market.

While singling out the madrassahs would be as wrong as putting the blame on the unemployed Muslims for all the terrorism in the world, it should be noted that education in Bangladesh [only in madrassahs], particularly for the Muslims has become a breeding ground for Islamic militancy and fundamentalism. Students coming from all shades of education - modern secular, *Aliya* madrassah, or *Qawmi* madrassah - have fallen prey to fundamentalist ideology and some are involved in violent activities, possibly with some difference in the number and degree of participation. But that ‘Islamic’ militancy in Bangladesh is informed by a precise, if not distorted, understanding of Islam remains apparent from the target of bomb attacks. Three such targets include: religious shrines, public gatherings mainly for entertainment, and

³⁹ Mumtaz Ahmad, *Madrasa Education in Pakistan and Bangladesh*, [http://www.apcss.org/Publications/Edited%20Volumes/Religious Radicalism/Pages from Religious Radicalism and Security in South Asia ch.5.pdf](http://www.apcss.org/Publications/Edited%20Volumes/Religious%20Radicalism/Pages%20from%20Religious%20Radicalism%20and%20Security%20in%20South%20Asia%20ch.5.pdf) (Accessed 7.5.2009).

⁴⁰ In fact, in some *Qawmi* madrassahs students end up in memorizing only the Quran for several years which hinders their job prospects in the society.

the non-Sunni Ahmadiyas. One cannot also rule out the Wahabi connection⁴¹ in reproducing militancy in Bangladesh. One report indicated that some of the Islamic militant groups aided no less by Indian, Pakistani and Afghan Muslims, received funds from the Middle East, including Saudi Arabia, to carry out their activities.⁴² This provided the direct linkages between Wahabization of Bangladesh and the concurrent reproduction of intolerance.

The higher educational institutions do not have separate departments catering to the religions of minority communities but in the University of Dhaka there are subjects like Islamic Studies & History of Islam, for instance. The other area of bias is the curriculum. For instance, the Department of World Religions in Dhaka University has a course on History of Islam whereas other histories of other religions are not included. Similarly if we see the number of students and teachers of religious minorities in the top most universities in Bangladesh, the scenario is quite pitiable.

Table 11: Number of non-Muslim teachers & students in higher studies⁴³

University	Non-Muslim students	Total students	Non-Muslim Teachers	Total teachers
Dhaka University	2498	50,713	76 (Arts faculty total-45, Science faculty-8 Law faculty-1 Business faculty-110 Social science faculty-5 Bio-science faculty-9)	1245 (Arts faculty total-326, Science faculty-161, Law faculty-37 Business faculty-174 Social science faculty-269 Bio-science faculty-278)
Jahangirnagar University	722 (Hindu-673 Buddhist- 32 Christian-17)	—	28 (Hindu-26 Christian -2) Faculty: Arts & Humanities-4 Mathematics & Physical Science-16 Social Science-5, Biological Science-3	472
Bangladesh University of Engineering and Technology (BUET)	—	—	34	429

⁴¹ A puritan version of Islamic reformism

⁴² The Daily Star, 24.2.2005.

⁴³ Annual Diary, Jahangirnagar University, 2007, Annual Diary Dhaka University, 2008, http://www.buet.ac.bd/?page_id=21,

Recently Education Minister Nurul Islam Nahid has said that the government would formulate the National Education Policy (NEP) within three to four months based on the Quadrat-e-Khuda Education Commission⁴⁴ report of 1974 so that a secular and science-based education system could be introduced and the report of the Quadrat-e-Khuda Commission slightly modified to make the policy appropriate for the country's existing education system. In view of the rise of religio-centered militancy and the allegation of these institutions being associated with them the government has constituted a committee to recommend reforms in their curriculum so as to make them job-oriented and also to monitor their activities.

There has been only one Hindu Vice Chancellor in the history of Bangladesh. Apart from the Vice Chancellor, the government also appoints the Pro-Vice Chancellor of a university. Not a single Hindu has been appointed in this position although there are many distinguished Hindu academics. However, the present AL government has appointed Prof. Pran Gopal, a member from the Hindu community, as a Vice Chancellor of Bangabandhu Sheikh Mujib Medical University (BSSMU). There are allegations of discrimination in awarding scholarships and enrolment in medical institutions.⁴⁵ A survey carried out in December 2008 among 1,400 members of the Hindu community about discrimination in academic institutions on account of their religious identities, 37.2% answered in the affirmative while 33.8% said that at times they have felt this.⁴⁶ Needless to say that the knowledge system shapes and reshapes a society. Knowledge is not only power but also a tool of hegemony and a source of creating hegemony through consent. The academic system in Bangladesh, it is argued, is creating a divisive confrontational system reproducing the hegemony of the dominant.

Apart from this emphasis on Islamic education, the academic curriculum also reflects the State bias towards Bengali. Article 17 Clause A of the Constitution calls for the establishment of a uniform system of education. While the need for uniformity in the context of Bangladesh may be understandable as the state promotes a particular language and culture, unfortunately the histories, cultures and lives of the minority communities are totally absent from these curriculums. The books provided by the National Textbook Board narrate the glory of Bengali heroes, its culture and history. The books however do contain narratives of Bengali Hindu heroes in the historical context, but when it comes to British, Pakistan and Bangladesh periods, only the Bengali Muslim nationalist heroes are covered. For instance, in the Social Studies book of Class V, for the above three periods the names of Titumir, A.K. Fazlul Haque, Maulana Bhashani, Shiekh Mujibur Rahman, Ziaur Rahman and M.A.G. Osmani are given. Such re presentations of history makes the history of Bangladesh, a history of Bengali Muslims only; whereas the entire spirit of the Bangladesh movement was secular in which Christians, Hindus, Muslims and persons of other faiths and ethnicities participated. The gendered and

⁴⁴ *Quadrat-e-Khuda Education Commission was formed in 1972 headed by the leading educationist and scientist Dr Quadrat-e-Khuda. The commission submitted its report to the then Sheikh Mujib government in May 1974. The commission suggested some major changes in the primary, secondary and higher secondary levels.

⁴⁵ Based on interviews of medical college students. These interviews were taken over a number of years, beginning in early 2000 till 2007 as part of this authors' various research works on politics. Students alleged that they were asked odd questions about their religion in viva boards. Authorities however refute the allegations and suggest that there are channels of complains; but the students felt that the teachers are too powerful and there is no point in complaining as they do not expect any justice.

⁴⁶ Ajay Dasgupta, *op.cit.*

masculine nature of the curriculum is also evident; none of the books from Class V to VIII contain any account of women in any nationalist movement. The consequence is not only the hindrance of diversity that is so essential for the growth of knowledge; but also and more dangerously so, the silencing of many voices and the creation of a *high culture* within the state while the rest are relegated to the periphery. The periphery is both minorities and women and, within this formulation, indeed the minority women are doubly marginalized.

9. Economic Issues

Right to livelihood is a fundamental right guaranteed in the constitution. It has been observed earlier that a system of silent discrimination is prevalent in the service sector. A major reason for this is the lack of inter community trust, which again is not only the consequence of historical factors but also the twists and turns of state politics. A survey carried out among 1,447 members of the Hindu community in December 2008, found that 75% of them are not confident about undertaking large investments in the country. 48.6% responded that they faced problems in their business because of their minority status. More alarmingly 45.2% said that because of their religious identity they faced problems in procuring loans for business purposes on a regular basis, 31.2% said that occasionally they face this problem.⁴⁷ The above figures and information are alarming. It is the insecurity of the religious minorities that does not encourage them to make major investment ventures. One can more or less conclude that investment which is regarded as the wheel of a country's progress remains confined within the majority community. This hinders the upward economic mobility of religious minorities; consequently they remain marginalized and dependent. Difficulties in getting loans just on the basis of one's religious identity makes mockery of the concept of democracy and the principles equality enshrined in the state constitution. It is important to note here that a circular was issued to the banks by the Home Ministry during the BNP regime in the early 1990s cautioning banks against providing loans to Hindus on the ground that they might leave the country and settle in India after acquiring the loan.

As regards right to property which again is a fundamental right guaranteed in the constitution, the Hindu community has been systemically deprived of this right. This indeed is the major and the most violent source of their discrimination and insecurity in Bangladesh. The state of Pakistan had formulated some specific laws that marginalized the Hindus in a systemic way and was a major source of their insecurity. Most ironically these laws were later inherited and retained by the state of Bangladesh. Consequently the Hindu community in Bangladesh feels economically and politically marginalized by these laws as can be seen from the description below.

A separate Act was passed to vest the property under the Enemy Property Act under the government. This Act known as the Vested Property Act (VPA) by the Bangladesh government is the main cause of economic marginalization of the Hindu community. It has its origins in a number of laws and by-laws promulgated by the Pakistani authorities. These originated in the East Bengal (Emergency) Requisition of Property Act (Act XIII of 1948). In the aftermath of independence in 1947 the then provincial government was faced with an abrupt and

⁴⁷ Ajay Dasgupta, *op.cit.*

acute problem of accommodation for the numerous government offices and public servants. Under those circumstances the said Act was passed for a period of three years and gave the government the power to acquire either on a temporary or permanent basis any property that it considered needful for the administration of the state.⁴⁸ The Hindu members of the East Bengal Assembly opposed the Bill on the grounds that it would make the properties of the Hindu community more prone to acquisition. Their apprehensions turned out to be true. The proceedings of the East Bengal Assembly of 1951 evidenced the fact that the Act was widely used against the religious minorities.⁴⁹

In 1951, the East Bengal Evacuees (Administration of Immovable Property) Act was passed. According to the government, this Act was necessitated due to the massive exodus of Hindus in the aftermath of the partition and the communal violence that accompanied it. Under the Act the government through the Evacuee Property Management Committee could take charge of the property of an evacuee person either on the basis of application from such person or on its own motion. The committee had the authority to grant lease or let out such properties as it deemed necessary. The Act also restrained the authority of the Civil Court or High Court to call into question any order passed or any action taken under this Act. It has been alleged that in many instances properties of Hindus still living in East Bengal were also requisitioned as evacuee property. The Hindu elites and zamindars (landlords) were mostly affected by this Act.

Following the Hindu-Muslim riot in 1964, the East Pakistan Disturbed Persons Rehabilitation Ordinance was passed in 1964. The validity of the Ordinance was extended from time to time until 1968. The Ordinance was supposed to bring about speedy rehabilitation to persons affected by the communal violence. It also introduced restrictions on the transfer of any immovable property of minority community without prior approval of the competent authority. Most of the common people did not have easy access to these authorities which created problems for the minority communities especially the Hindus, for in essence between 1964-1968 they were deprived of their right to ownership of property as two of its basic components i.e. (a) right to ensure the title of his/her property, (b) right to transfer, became void during that period.⁵⁰

The Defence of Pakistan Ordinance (Ord. XXIII of 1965) was promulgated following the outbreak of the India-Pakistan war in September 1965. It authorized the government to take special measures to ensure the security, public safety, interest and defense of the state. An emergency was also proclaimed. Under the provisions of Emergency Powers and the Defence of Pakistan Ordinance, the government framed the Defense of Pakistan Rules (DPR) and under its rules the government made an executive order on September 9, 1965 named the Enemy Property (Custody and Registration) Order II of 1965. The Enemy Property Act consisted of the following major parts:

[a] India is declared as an enemy country.

⁴⁸ Abul Barkat and Shafiquzzaman, *Political Economy of the Vested Property Act in Rural Bangladesh*, Dhaka, Association for Land Reforms and Development, 1997, p. 27.

⁴⁹ *Ibid*, p.24.

⁵⁰ *Ibid*, pp.29-31.

[b] All interests of enemy, i.e., the nationals/citizens of India, those residing in the territory occupied/captured/controlled by India - in the firms, companies as well as in the lands and buildings situated in Pakistan to be taken over by the custodian of Enemy Property for control or management.

[c] The benefits arising out of trade or business or lands and buildings should not go to the enemy, so that it may not affect the security of the state of Pakistan or impair its defense in any manner.⁵¹

Though the war came to an end in September 1965 itself the above law was kept in operation through various proclamations. It had a distinct communal bias. In a circular it was specified that Muslims residing in India, including Indian citizens would be excluded from the category of 'enemy', though the Act had explicitly stated that all citizens of India would be regarded as enemy. The circular also pointed out that the properties of such Muslim owners would be handed over to them or their legal heirs on demand. But in the case of the minority community once the property is enlisted as 'enemy' his or her ownership right would be lapsed forever. It was not only a clear case of discrimination; but also an explicit demonstration of the lack of confidence and trust of the state in its Hindu population. Paradoxically enough, as stated earlier the Bangladesh government retained the same under a new Act and name. On 26 March 1972, the Bangladesh government enforced [*parliament enacted*] the Bangladesh Vesting of Property and Assets Order (Order 29 of 1972). By this Order the properties left behind by the Pakistanis (non-Bengalis, Biharis who left for Pakistan) and the erstwhile enemy properties were combined to a single category; thus all the properties of the 'enemy' remained with the Bangladesh government under the banner of Vested Property.

The above law was a clear violation of the spirit of the Bangladesh liberation war. Secularism was adopted as one of the state principles; yet the state retained this communal Act. More importantly it was also quite out of context and time as Bangladesh itself was liberated with India's active assistance; and the two countries were signatories to a Treaty of Peace and Friendship. Under the terms of the Act however one had to assume that Bangladesh was in a state of war with India.

A Parliamentary Sub-Committee Act was set up under the Ministry of Land to recommend the repeal of the VPA and it formulated a draft Bill to this effect. The Bill had several loopholes however. It recommended that properties that were not legally vested in the ownership of the government and those which had been declared as enemy or vested property after 16 February 1969 would not be considered as vested property under the proposed law. The fact of the matter is that most of the Hindu property had been declared as vested property after this period. The proposed Bill further read that nothing containing in the proposed law shall affect the proprietorship status of the vested property if it had been taken over by the government, a government institution, any other institution or individual, had been sold or had been handed over permanently by the government at the directives of a court. These cases could not be even questioned in any court. It is argued here that these provisions negate and defeat the spirit and

⁵¹ *Ibid.* pp. 31-35.

objectives of the repeal of the VPA. The law also states that the original owners must produce their land documents to the tribunal within 180 day of the promulgation of the law else it would be taken over as government property. The 180-day time period is considered to be insufficient by members of the community. Besides it also provides that in case of the absence of the original owner the property would be passed on to the successor according to Hindu inheritance laws. The present Hindu law deprives women of any right to inheritance, and in such an instance the provision is discriminatory towards women.

The VPA was repealed by the AL regime in April 2001 as the Vested Property Return Bill 2001. This Bill deals only with those vested lands which are now under government's control or possession. Claimants must prove their "unbroken and permanent citizenship" to qualify for the ownership of vested property. Tribunals would be set up in all 64 districts of Bangladesh where valid owners would be asked to place their claims within 90 days. The tribunals would have to settle the cases within 180 days. As per the Bill, the property not claimed by any in the tribunals, or claims which cannot be validated would be given to the government for sale or lease. Property earlier released from the Vested Property list or for which a decree was obtained from a higher court, or permanently leased out by the government to any authorized person or agency, or acquired for public interest would not be included in the new Vested Property list.⁵² It thus appears that the anomalies existing in the Bill proposed earlier have not been rectified. Most members of the Hindu community however feel that the repeal is insignificant because land alienation and land grabbing of the Hindu community still continues through coercion since the state system is biased towards the majority community. Even after the Repeal Act was passed in 2001, 8 percent of dispossession incidents occurred between 2001-2006. Not only the political parties but state agencies are also associated with the process of land grabbing. Land is grabbed in connivance with Tahsil (Assistant Commissioner of Lands) and Thana (sub-district) Revenue Office. Death or out migration of one of the members of the Hindu family is used as an excuse to enlist the whole property. Intimidation, violence by thugs using forged documents are the common methods employed to grab property.⁵³ As stated earlier, the Hindus also allege discrimination in business, employment and education sectors. There is a deep conviction among members of the community that preference in the above sectors would invariably be given to Muslim members.

The VPA has been the one of the major sources of economic insecurity for Hindus. Due to the joint ownership property concept of the Hindus many of them have been dispossessed of their property; the Hindus regarded it as a 'Black' law, which not only marginalized them economically, but also turned them into second-class citizens. It was considered a major cause of their migration. The estimated size of such migration during 1964-1991 was 5.3 million, or 538 persons each day since 1964, with as high as 703 persons per day during 1964-1971.⁵⁴

⁵² The Daily Star, 10.4.2001.

⁵³ Abul Barkat, et.als, *Deprivation of Hindu minority of Bangladesh: Living with Vested property*, Pathak Shamabesh, Dhaka, 2008.

⁵⁴ Sultana Nahar, *A Comparative Study of Communalism in Bangladesh and India*, Dhaka, Dhaka Prokashon, 1994,

It has been alleged that due to the above Act the minority community was discouraged from acquiring new land and was also compelled to sell off their property at cheap prices. The procedure of declaring minority-owned land as enemy or abandoned property was also carried out through fraudulent practices. Government documents also substantiate these allegations. According to one estimate one million acres of land belonging to the minority community out of a total arable land of 21 million of the country has been subjected to transfer from minority owners to the dominant sections of the society. A study has estimated the violations of Hindu property rights due to the Vested Property Act as follows:

- Approximately a million Hindu households (40%) have been deprived of over 1.64 million acres of landed property, which is 53% of the land owned by Hindu households. This included 81.7% agricultural land, 10% homestead land, 1.74% garden land, 2.4% ponds, 0.68% fallow land and the rest was 3.4%.
- About 60% of the total incidents of dispossession and 75% of the total land lost took place between 1965 to 1971. The intensity of dispossession increased after the military takeover in 1975.
- In 56% of the affected families, at least one of the successors had either died or migrated.
- None of those who had appropriated property at that time belonged to the poorer class.
- Approximately 44% of persons who had appropriated property of minority communities belonged to the Muslim League, 20% to the BNP, 17% to the AL, 5% to the Jatiyo party and 1% to the JeI. In 1995, 72 and 11% of those who appropriated Hindu property belonged to the BNP and AL respectively; while in 1997 an equal number of 44% each from the AL and the right wing parties were involved in appropriating Hindu property.⁵⁵

In this respect the collusion of interest (though otherwise totally absent on core national issues) between the political parties – and more specifically the two major ones – is indeed remarkable.

The 2007 Human Rights report of the ASK states that in 2006 there were 54 seizures by Muslim individuals of Hindu-owned land and 43 attacks against Hindu temples by Muslims. The VPA's implicit presumption that Hindus do not really belong in Bangladesh contributes to the perception that Hindu-owned property can be seized with impunity. By making use of this Act, interest groups of political parties in power and individuals continue to confiscate properties belonging to the minority Hindu community, and indeed do so with the complicity

⁵⁵ Abul Barkat (ed), *An Inquiry into Causes and Consequences of Deprivation of Hindu Minorities in Bangladesh through the Vested Property Act: Framework for a Realistic Solution*, Dhaka, ALRD, 2000, .Ct. from Shishir Moral, Rights of Religious Minorities, in Hameeda Hossain (ed). *Human Rights Bangladesh*, 2000, Dhaka, Ain 'O Salish Kendro, 2001, pp. 160-161.

of the authorities and influential persons. The VPA represents a major source of insecurity for the Hindus and is a source of violation of their human rights.

In a move to resolve the issue of land loss, the government in 2008 drafted a new law “Vested Property Examination and Resolution Amendment Bill”. But the document had some major flaws; the term vested property is defined only as land that is with the government, or was identified by the government on the vested property list, or property identified by the government as vested by Upazila (sub-district) committees formed after the amendment is passed. The local Land/Tahsil office is the body responsible for evaluating which land is vested, and resolving ownership. Since most vesting is with the active collusion of the Upazilla and other Land Offices it would be like asking them to investigate their own crimes. Due to vigorous protests by rights groups the government shelved the Bill. In the absence of a permanent, just, legal system to resolve the issue of land rights the discrimination, it is argued, would continue.

10. Religious Rights

Religious festivals are an important marker of differences. In the context of South Asia, religions, culture and politics are often intertwined.

Shukla and Monika recalls that they used to get new clothes for Eid and visit their Muslim friends. Yet they knew this was not their festival, for despite all the togetherness the lines were drawn quite clearly. They visited the houses of their Muslim friends but they knew that they could eat only a few of the meals prepared for the day. The *pujas* were their own, the *Lakshi puja*, the *Durga puja*, *Shoroshwoti puja* and so on. During these festivals many of their Muslim friends came and also ate the *Prasad* (*offering to the gods*). At that time, they recalled the *puja* festivals were not marred with violence as they are today, yet they feel despite the amity and friendship they remained Hindus and their Muslim friends Muslims, two distinct hard core identities.⁵⁶

The above social markers and identities became politicized and to a large extent acquired an aggressive tone and texture with the state acquiring a distinct Islamic identity. The privileging of one religion as the state religion implied the relegation of other religions to the periphery, even though, in principle, government institutions and the courts protect religious freedom. The Government has also established trust funds for each of the four religious groups, allocating Tk. 10 million to each group to restore and renovate religious buildings. The Hindu Welfare Trust founded in the 1980s used its money to repair temples, modify cremation pyres, and help destitute Hindu families afford medical treatment. The then Prime Minister Khaleda Zia

⁵⁶ Imtiaz Ahmed & Amena Mohsin, *op.cit.*

donated US \$75,000 from the government's welfare fund to a local trust to expand Hindu temples and other facilities.⁵⁷ The Buddhist Welfare Trust, also founded in the 1980s, used funds to repair monasteries, organize training programs for Buddhist monks, and celebrate the Buddhist festival Purnima.

The Ministry of Religious Affairs provided assistance and support to the Christian institutions in the country. Mission schools and hospitals were well attended and were used by members of all religions. The Christian community usually enjoyed better opportunities for education and a better standard of living. In the late 1980s, the Christian community had about 600,000 followers, mainly Roman Catholic, and their numbers were growing rapidly. The government allowed foreign missionaries to work in the country, but their right to proselytize was not explicitly protected by law. Some missionaries faced problems in obtaining visas or renewing visas while others reported that internal security forces closely monitored their activities.⁵⁸

Major religious festivals and holidays of the Muslim, Hindu, Buddhist, and Christian religious groups are celebrated as national holidays. The Bangladesh Christian Association lobbied unsuccessfully for the inclusion of Easter as a national holiday. Following the electoral violence of 2001 and wide criticism of the government by minority rights groups, national and international, the government took measures to restore its image. Since 2001, it has been routine government practice to post law enforcement personnel at religious festivals and events, since religious gatherings are usually large and make for easy targets. Political leaders, both in government and in opposition, issue statements on the eve of religious holidays calling for peace and inter religious harmony. The Head of the State also hosts official dinners on these occasions in honour of the dignitaries of the national and international community. Through additional security deployments and public statements, the state has been able to bring down the attacks during religious festivals. In a survey carried out among 1,436 members of the Hindu community in December 2008, 36.5% of the respondents said that they feel secure in observing their religious festivals. In the same survey 63% of the respondents said that in their areas religious temples have been occupied.⁵⁹ According to the annual human rights report of ASK, the attack on temples has come down from 43 in 2006 to 5 in 2007 and 3 in 2008. While the above decline is indeed appreciable, there is no way to argue that this decline is due to the emergence of a non-communal spirit in the society, which is otherwise negated by the rise of extremist forces. Rather, it suggests that the state of Bangladesh has failed to create a space of religious freedom for its minorities. The massive deployment of law enforcing agencies is testament to this. One does not observe this same deployment or fear of attack during the religious festivals of the Muslim community.

It needs to be emphasized that the Constitution guarantees religious freedom and it has also been observed that the state donates funds for the renovation of religious sites; yet the religious minorities, particularly Hindus, continue to suffer from insecurity. The latter indeed is a

⁵⁷ Xinhua News Agency, 21.9.1995.

⁵⁸ 2008 Human Rights Report, Bangladesh, February 28, 2009 < <http://bangladeshwatchdog.blogspot.com/search?updated-min=2009-01-01T00%3A00%3A00-05%3A00&updated-max=2010-01-01T00%3A00%3A00-05%3A00&max-results=50> > (accessed 6.4.2009).

⁵⁹ Ajay Dasgupta, *op.cit.*

product of the identity that the state has acquired and the subsequent course of politicization and militarization of religion by the state apparatus.

Concluding Remarks

As stated earlier, the predicament of the Hindus within the state of Bangladesh is indeed most regretful, for they have also had to bear the major brunt during the Liberation War. The Pakistani authorities tried to communalize the war, terming it as an Indian/Hindu conspiracy to destroy the unity of a Muslim nation. The Hindus and the AL members were the prime targets of the Pakistani authorities. Consequently about 90% of Hindu households were affected.⁶⁰ Most of them had to flee to India — in August 1971 the communal composition of the refugees was 671,000, out of which 541,000 were Hindu.⁶¹

Despite constitutional protection, religious minorities in Bangladesh face discrimination at the state and societal level. This discrimination has a distinct gendered dimension. The minority women it has been observed are doubly marginalized, first in their sexual and gender identity as women and secondly as members of a religious community. It needs to be emphasized that laws and policies are no guarantee for the exercise of rights, freedom and security unless these are implemented in spirit. Majoritarian democracy, politicization of administration, failure of the growth of a mature, secular, political culture and system, polarized civil society, state's failure to deliver services and basic needs to its population are some of the major factors responsible for the growth of extremism in Bangladesh. A culture of human rights violations by the state as well society has developed. Alarming a certain level of tolerance is also evident in this respect. This culture is the consequence of the militancy and intolerance observed in our politics.

One also observes a collusion of the state and non-state forces in carrying out their respective agendas for power acquisition in different forms. While this collusion was prevalent earlier, a qualitative shift has taken place. The non-state actors are threatening the statist structures at all levels. This might be regarded as a counter globalization force which has contradictory elements. At one level there are the forces of destruction and extremism; on the other the rightists, who are pushing for rights at all levels and for different sections of the society. The creation of a humane, just society depends much upon the creative interventions of the latter, which can be made at several layers. The primary task is *protection*. Structures, institutions and laws protective of human rights, religious rights, and women's rights have to be mapped in, into the structure of state institutions. This would require human rights bodies to be formed at the national, local and community levels and constant monitoring on their part. The institution of an ombudsperson also needs to be created. Secondly, *preventive* measures need to be taken. This would include strengthening of the law and order agencies. Inter-faith and inter-community dialogues are also important for building a society that believes in and

⁶⁰ *Ibid.*

⁶¹ Imtiaz Ahmed, "Refugees and security: The Experience of Bangladesh", in S.D. Muni and Lok Raj Baral ed. *Refugees and Regional Security in South Asia*, (Colombo: Konark Publishers, 1996), p. 128

practices coexistence. Finally, *curative* measures. This involves long term strategies starting from education reforms, electoral reforms and political party reforms to reforms in the defense structure.⁶² A humane society at its very core requires training in the ethos of respect, tolerance and justice. In Bangladesh today we have a political system which might be democratic in name, but not in spirit or practice. But it is hoped that society, which is democratic, will transform the political system into a representative pro-people democracy. As Anjan Roy, a media personnel in Bangladesh puts it very eloquently, *Jongon dekche jonogon bujhe* (people are watching, people are understanding).⁶³

⁶² For details of these ideas see, Imtiaz Ahmed & Amena Mohsin, *op.cit.*

⁶³ Anjan Roy, the anchor person of Ekeshar Raat (TV Talk Show) ETV made this statement in concluding one of his shows in early May 2009.

ANNEX 1

Terrorist Outfits in Bangladesh⁶⁴

Terrorist Outfits	Source of Funding	Goals
<p>Harakat ul-Jihad-i-Islami (HuJI)</p>	<p>Specific sources of external aid are unknown.</p>	<p>HuJI or HJI was formed in 1984 by Fazalur Rehman Khalil and Qari Saifullah Ashtray, as the first Pakistan-based jihadist outfit, during the Soviet-Afghan War. Khalil later broke away to form his own group Harkat-ul-Ansar (HuA), which later emerged as the most feared militant organization in Kashmir. This group would later re-form as Harkat-ul-Mujahideen (HuM), when HuA was banned by the United States in 1997. HuJI first limited its operations in Afghanistan to defeating the Communists, but after the Soviets retreated, the organization exported jihad to the Indian state of Jammu and Kashmir under the patronage of the Inter-Services Intelligence (ISI) and the Pakistani establishment.^[2] HuJI's footprint was extended to Bangladesh when the Bangladesh unit was established in 1992, with direct assistance from Osama bin Laden.</p> <p>HuJI, along with other terrorist organizations such as Lashkar-e-Toiba (LeT), HuM, and Jaish-e-Mohammed (JeM) emerged from the same source, and therefore had similar motivations and goals. However, HuJI and HuM were both strongly backed by the Taliban, and therefore the group professed Taliban-style fundamentalist Islam. HuJI espoused a Pan-Islamic ideology, but it believed in violent means to liberate Kashmir and make it a part of Pakistan.</p> <p>After the group established its Bangladesh wing, the operations in Bangladesh increased, with the major source of recruitment coming from the Islamic madrassas. The training for these recruits was given in the hilly areas of Chittagong and Cox's Bazaar. Later on, members of the group made an attempt on the life of Shamsur Harman, the liberal poet in January 1999. Committed to establishing an Islamic rule, HuJI was the prime suspect in a scheme to assassinate the Prime Minister of Bangladesh Sheikh Hasina in the year 2000, and has been blamed for a number of bombings in 2005. In October 2005, it was officially banned by the government of Bangladesh.</p>

⁶⁴ www.satp.org [www.start.umd.edu/start/data/tops/terrorist_ organization_profile.asp?id=4587](http://www.start.umd.edu/start/data/tops/terrorist_organization_profile.asp?id=4587) (accessed on 25.5.2009).;

Terrorist Outfits	Source of Funding	Goals
<p>Harakat ul-Jihad-i-Islami/ Bangladesh (H.U.J.I.-B.)</p>	<p>The HuJI-B had reportedly been formed drawing inspiration from Osama bin Laden and continues to maintain active links with the Al Qaeda network and remnants of the Taliban militia. The HuJI-B reportedly receives financial assistance from Pakistan, Saudi Arabia and Afghanistan through Muslim NGOs in Bangladesh, including the Adarsa Kutir, Al Faruk Islamic Foundation and Hataddin. It is also suspected to be generously financed by the ISI of Pakistan.</p>	<p>The Harkat-ul-Jihad-al Islami Bangladesh (HuJI-B) was established in 1992, reportedly with assistance from Osama bin Laden's International Islamic Front (IIF). On April 30, 1992, several of the HuJI-B leaders addressed a press conference at the Jatiya Press Club in capital Dhaka and demanded that Bangladesh be converted into an Islamic State. The outfit's activities, however, were noticed in June 1996 after the Awami League came to power. HuJI-B aims to establish Islamic <i>Hukumat</i> (rule) in Bangladesh by waging war and killing progressive intellectuals. It draws inspiration from bin Laden and the erstwhile Taliban regime of Afghanistan. At one point of time, the groups issued a slogan, <i>Amra Sobai Hobo Taliban, Bangla Hobe Afghanistan</i> (We will all become Taliban and we will turn Bangladesh into Afghanistan). HuJI-B recruits are indoctrinated in the mould of radical Islam. The HuJI-B was proscribed by the Bangladesh Nationalist Party (BNP)-led coalition Government on October 17, 2005.</p>
<p>Jamatul Mujahedin Bangladesh (JMB)</p>	<p>JMB receives funding from a variety of sources. Private citizens from countries throughout the Middle East allegedly contribute to JMB, while international NGOs based in the Persian Gulf also provide a significant source of funding.</p>	<p>JMB, like other Bangladeshi Islamist terrorist groups, targets secular politicians, intellectuals, and those who support Bangladesh's minority Hindu population. Despite the arrest of over 300 JMB members in the wake of the August 17th bombings, the government has come under heavy criticism for its failure to halt extremist violence, though this trend may be changing. In December 2005, the government proposed a new anti-terrorism measure that would toughen sentences for those convicted of involvement in terrorism, in addition to increasing bounties for the capture of JMB leaders. Many prominent Bangladeshis and members of the secular opposition AL party accuse the government of collaboration with, or at least tacit tolerance of, Islamic extremists. The government coalition, headed by the centre-right BNP, relies on three Islamic parties for support. These parties are suspected by many of supporting JMB, JMJB and HuJI, a similarly minded terrorist outfit. Given JMB's extensive operational capacity, links to other terrorist organizations in Bangladesh, and the government's apparent lukewarm response to effectively rein in extremism, continued attacks by JMB can be expected.</p>

INDIA

INTRODUCTION

Home to nearly 1.2 billion people from different ethnic, linguistic, religious and geographical backgrounds and with a history spanning nearly 5000 years of recorded history, India is any analyst's nightmare.

How does one capture the myriad social, political, cultural and economic processes that go on simultaneously at any given point of time? How can one describe the breathtaking diversity of this land in a short report, a book or even a library? Will there ever be any consensus on what exactly is India all about and how it has evolved to be what it is today?

The answers to all these questions in one short sentence could be like this: No, there will never be any consensus and India is too big to be described in all its aspects by any one set of people.

With this caveat on hand, one can however proceed to also say that – despite all the above mentioned difficulties – it is indeed possible to discern broad trends in Indian history, society, politics, culture and demography that give an overview of what is happening in the country today.

In particular, the theme of discrimination against minorities in India, the subject of this report, is somewhat more amenable to such an overview, given the wealth of material that is available from both historical records to more modern-day processes chronicled by numerous sources from Indian media and civil society to official reports and publications of key social and political players themselves.

In fact, our task of giving a bird's eye view of how discrimination operates in India is made somewhat easier by the sordid and yet simple fact that discrimination of all kinds remains the key characteristic of Indian society. From the odious caste system that pervades most aspects of Indian life even today to the chronic problem of sectarian violence on grounds of religion, language or territory, discriminatory practices abound and constitute a major challenge to the otherwise broadly democratic nature of the Indian polity.

This is not to say that there is no social tolerance or peaceful co-existence of different identity groups in the country. Indeed, there are plenty of examples of mutual cooperation and

tolerance among communities, that is what keeps India still going, but in recent decades the ugly phenomenon of religious discrimination has risen to dangerous proportions and hence the need for a report of this kind.

In the chapters of this report, we deal with the demography and socio-economic status of minorities, and some corrective measures that need to be implemented urgently to restore peace and democratic norms in the country. A bulk of the data in this report is taken from published reports and official surveys while the analysis is based on the judgment of the authors who have in turn referred to other published sources of analysis wherever possible.

A word is due here on how the term ‘minority’ is used in this report, which may be in contrast to how it is understood elsewhere.

The Constitution of India uses the word ‘minority’ or its plural form in some Articles – Article 29 to 30 and 350A to 350B – but does not define it anywhere. Article 29 speaks of “any sections of citizens ... having a distinct language, script or culture”. Article 30 speaks specifically of two categories of minorities – religious and linguistic.

A special Sub-Committee on the Protection of Minority Rights appointed by the United Nations Human Rights Commission in 1946 defined ‘minority’ as those “non-dominant groups in a population which possess a wish to preserve stable ethnic, religious and linguistic traditions or characteristics markedly different from those of the rest of populations”.

Generally, in popular literature, all those who profess a religion other than Hindu are considered minorities since over 80% population of the country professes Hindu religion. At the national level, Muslims are the largest minority. As regards linguistic minorities, there is no majority at the national level and the minority status is to be essentially decided at the State/Union Territory (UT) level.

The Muslims are the majority in the State of Jammu and Kashmir and the Union Territory of Lakshadweep. In the States of Meghalaya, Mizoram and Nagaland, Christians constitute the majority. Sikhs are the majority community in the State of Punjab.

The National Commission for Minorities Act, 1992 says that, “Minority for the purpose of the Act, means a community notified as such by the Central Government” – Section 2(7). Acting under this provision on 23 October 1993, the Central Government notified the Muslim, Christian, Sikh, Buddhist and Parsi (Zoroastrian) communities to be regarded as “minorities” for the purpose of this Act.

The Supreme Court in *TMA Pai Foundation & Ors vs State of Karnataka and Ors* (2002) has held that for the purpose of Article 30 a minority, whether linguistic or religious, is determinable with reference to a State and not by taking into consideration the population of the country as a whole. Incidentally, ‘Scheduled Castes’ and ‘Scheduled Tribes’ are also to be identified at the State/UT level.

In several States (e.g., Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Uttar Pradesh and Uttarakhand), Jains have been recognized as a minority. The Jain community approached the Supreme Court seeking a direction to the Central Government for a similar recognition at the national level and their demand was supported by the National Commission for Minorities.

There is also a growing opinion among social commentators that ‘minority’ is a relational concept and does not indicate the mere numerical/demographic dimension alone. It denotes those marginalised in the power structure, discriminated against in the economy and even those socially excluded, segregated and subjugated.

Additionally, group discrimination is also targeted against several sections – against children, women, the aged, the disabled, against sexual minorities, against people with different looks and against the linguistic, ethnic, national and religious minorities, against migrants and so on. But in India, discrimination according to one’s social identity operates with tremendous autonomous force and economic status discrimination aggravates this social status discrimination.

However, given the main theme of this report, here we will primarily deal with sectarian discrimination against minority religious communities and caste groupings. In particular the report focuses mostly on the status of the Muslim community, which is the single largest religious minority group in the country and bears the brunt of the social, economic and political discrimination that operates in Indian society.

1. Demographic Profile of Minorities

1.1 Demographic politics

Demographic politics is a powerful arsenal in the armoury of Hindu chauvinists in India for minority baiting. Misinterpreting population growth trends, they create a bogey that Muslims would become the majority in India and that the Christian population is expanding through conversions. They also try to project Muslims in a bad light claiming that they do not practice family planning because of religious prejudices. But facts speak otherwise.

1.1.1 The Myth of “Explosive Growth” of the Muslim Population in India

The release of unadjusted data of the 2001 Census by the Census Commissioner in 2004 created a lot of confusion and controversy. This provided an opportunity to the Hindu rightwing propaganda machinery to create an alarm that Muslim population was growing at more than one and a half times than the growth rate of the Hindu population – at 36% compared to around 20% growth of the Hindu population. Later, after the release of the adjusted figures, it became clear that the difference in growth rates was not as wide as given in the unadjusted

figures but came to 9% only instead of 16%, i.e., 29% after adjustment instead of the unadjusted figure of 36%.

More importantly, the adjusted figures revealed that the decadal growth rate of Muslim population was actually declining in 1991–2001 over 1981–1991. Further, absolute figures of increase in Hindu and Muslim population demonstrate such alarm to be baseless.

The Census-based fact that more Hindus than Muslims were added to the Indian population between 1991 and 2001 (4.8 Hindus for every one Muslim) was conveniently ignored by Hindu right wing while making an assertion that Muslims would soon outnumber Hindus in India.

Table 1.1: Proportion and growth rate of population by religious communities in India, 1961–2001

Religious community	Unadjusted					Adjusted*				
	1961	1971	1981	1991	2001	1961	1971	1981	1991	2001
	Proportion									
Hindus	83.4	82.7	82.6	82.0	80.5	84.4	83.5	83.1	82.4	81.4
Muslims	10.7	11.2	11.4	12.1	13.4	9.9	10.4	10.9	11.7	12.4
Christians	2.4	2.6	2.4	2.3	2.3	2.4	2.6	2.5	2.3	2.3
Sikhs	1.8	1.9	2.0	1.9	1.9	1.8	1.9	2.0	2.0	1.9
Buddhists	0.7	0.7	0.7	0.8	0.8	0.7	0.7	0.7	0.8	0.8
Ains	0.5	0.5	0.5	0.4	0.4	0.5	0.5	0.5	0.4	0.4
Others	0.3	0.4	0.4	0.4	0.6	0.3	0.4	0.4	0.4	0.7
	Growth Rate									
		61-71	71-81	81-91	91-01		61-71	71-81	81-91	91-01
All religious communities		24.8	21.4	26.0	22.7		24.8	24.8	23.8	21.5
Hindus		23.7	21.3	25.1	20.3		23.4	24.2	22.8	20.0
Muslims		30.8	22.9	34.5	36.0		31.2	30.8	32.9	29.3
Christians		32.6	13.7	21.5	22.6		36.0	19.2	17.0	22.1
Sikhs		32.3	26.0	24.3	18.2		32.0	26.2	25.5	16.9
Buddhists		17.1	23.8	35.3	24.5		17.0	25.4	36.0	23.2
Jains		28.5	23.1	4.6	26.0		28.5	23.7	4.0	26.0
Others		45.7	26.6	18.2	103.1		97.7	26.6	13.2	111.3

Source : Census of India, Various Years

Note : * Excludes Jammu & Kashmir (J&K) and Assam for all decades from 1961 to 2001. No census was conducted in Assam in 1981 and in J&K in 2001.

Table 1.2: India's Population by Religious Community in Absolute Numbers, 1961–2001

Religion	1961a		1981b		2001	
	Number (millions)	Percent	Number (millions)	Percent	Number (millions)	Percent
All Religions	439	100.0	665	100.0	1,029	100.0
Hindus	367	83.4	550	82.6	828	80.5
Muslims	47	10.7	76	11.4	138	13.4
Christians	11	2.4	16	2.4	24	2.3
Sikhs	8	1.8	13	2.0	19	1.9
Buddhists	3	0.7	5	0.7	8	0.8
Jains	2	0.5	3	0.5	4	0.4
Others	1	0.3	3	0.4	7	0.6
Religion not stated	c	d	d	d	1	0.1

a Religious breakdown of 297,853 residents of North East Frontier Agency not available.

b Excludes Assam, where 1981 Census was not held.

c Rounds to less than 1 million.

d Less than 0.1%.

Sources: Census of India, various years.

Further, if we compare the proportion of 0–6 age-group population in each religious community, the share of this age-group population among Hindus was 16% in 2001 and among Muslims 19%, the difference being a mere 3% though it is around 9% considering the population in all age-groups. This means, in recent times, the difference among birth rates among Hindus and Muslims is sharply narrowing down.

Table 1.3: Proportion of 0–6 Age-group Population in Each Religious Community

Population	Age-Group 0-6 (percent)
Total	16
Muslims	19
Hindus	16
Buddhists	15
Christians	14
Sikhs	13
Jains	11
Others	18

Source: Census of India, 2001.

1.1.2 The Slander that Muslims Shun Family Planning for Religious Reasons

One of the pernicious myths spread by Hindu right wing forces in India is that Muslims do not use contraceptives because of religious prejudices. With cultural development and educational advance and greater entry of Muslim women into the labour force, the fertility rate among Muslims has also been steadily declining due to adoption of family planning safeguards by Muslim couples.

The Baroda-based Operation Research Group (ORG) conducted a survey among Hindus and Muslims regarding their family planning practices and according to this ORG survey the number of Muslims practicing birth control is increasing.

According to the ORG survey, 52% among Muslims and 9% among Hindus refused to accept family planning but for the period 1980–1989:

- i) 11.5% additional Muslims began to accept permanent family planning methods, and for the same period 10% more Hindus accepted permanent methods of family planning and
- ii) Acceptance of temporary birth control methods increased by 5 to 10%. Evidently, Muslims are increasingly taking to family planning, especially in recent times.

On the question of the link between religion and fertility, demographers point out that the former has no significant impact on fertility. Sociologist R.A. Chaudhary, states, “The observed differences in fertility are mostly due to socio-economic differences between Muslims and other religious groups. Once these differences are accounted for, the fertility differences between Muslims and other religious communities will largely disappear”.

Worth noting too is the curious reversal of the pattern in Jammu and Kashmir, a Muslim majority State. The fertility rate of Hindus here is almost twice that of Muslims. According to recent figures for 1989–90, the State had a lower birth rate (31.4 per 1000) than Uttar Pradesh (36.5), Madhya Pradesh (36.4), Bihar (34.8) and Rajasthan (33.4).¹

1.2 Urbanisation

A high rate of urbanisation among Muslims is often cited as a measure of their greater social progress which perhaps is not a correct conclusion. If one examines this more closely one cannot come to this conclusion definitively.

True, the share of Muslim population living in urban areas is quite high compared to overall rate of urbanisation in the country as well as in relative terms compared to other major

¹ See Reference File 2: ‘Population of Minorities’ by Ram Bharose in http://www.geocities.com/indianfascism/fascism/population_of_minorities.htm

communities. In 2001, 36% of Muslims in India lived in urban areas compared to 26% of Hindus. The share of urban Muslims is marginally higher compared to even Christians at 34%. In the context of a developing country where urbanisation is considered progress, does this in itself amount to higher degree of social and economic progress?

Firstly, being primarily a trading and artisan community, a large proportion of Muslims had been living in cities and towns even in the earlier times. In 1961, 27.1% of Muslims were living in urban areas compared to 18% of the entire population while in 2001 35.7% of Muslims were urban compared to 27.8% of the overall population. This means while urbanisation increased by 9.8% for the entire population, it went up marginally lesser by 8.6% only for Muslims. Even assuming that the rate of urbanisation is an indicator of overall progress, it is clear that in the decades since 1960 the rate of urbanisation of Muslims is a shade lower.

Districts with Muslim Population	Above 90% > 6 70-80% > 1 60-70% > 3 50-60% > 2 40-50% > 6 30-40% > 15 20-30% > 22
Total Number of Districts in India	593 at the time of 2001 Census. 610 in June 2008. Increase due to bifurcation of some districts.
Number of Parliamentary Constituencies	545
Muslim-Majority Districts	12 out of 610
Christian-Majority Districts	9 (1991 figure)
Sikh-Majority Districts	21 (20 in Punjab plus Chandigarh)
Muslim-Majority Constituencies	12 out of 545

1.3 Christian-Majority States and Districts

Nagaland, Mizoram and Meghalaya are the three Christian-majority States of India.

11 districts of Nagaland, 8 of Mizoram, 7 of Meghalaya and Nicobar are Christian-majority districts in the country. Nicobar has 67% Christian population in 2001. Outside the northeast, Kottayam in Kerala has 44.6% Christian population and Kanyakumari district in Tamil Nadu has 44.5%. Some districts of Chhattisgarh and Jashpur and Gajapati in Orissa have sizable Christian populations.

1.4 Muslims as Voters

Using religion as a unit of political mobilisation is a fact of Indian electoral politics – for some parties for the sake of their quest for parliamentary power and for others for the sake of increasing their electoral clout and making it subserve their largest agenda of fascistic takeover of power. Sharply polarizing the voters along communal lines and posing as saviours of threatened minorities – all are part of this, operating often blatantly and sometimes in a subtle manner. Because of this, rivals often hurl the epithet of “votebank politics” at each other to attack their opponents’ attempts to cultivate the support of the voters of a particular religion. Opinions differ as to whether communities, especially minorities, exist as “votebanks”, and if so, to what extent.

The Muslim population is not uniformly spread across the country. However, comprising 13.4% of the population, they might have some electoral clout. But the fact that Muslim population is concentrated in some States and regions means whatever clout they might acquire is also unevenly dispersed in some States and constituencies. But the more basic question is: Is there a Muslim vote? In other words, do Muslims always vote en bloc?

The overwhelming majority of Muslim voters might vote against rightwing Hindu parties, which play an active role in persecuting them. But different surveys by leading psephologists have revealed that Muslim votes are divided between different centrist and left-of-centre parties that characterize themselves as “secular”. Besides this, one also comes across some Muslim political outfits seeking to make their religious community an electoral political force but only with some marginal success at times in some limited regions.

And finally, of course, there is always the lobbying by community leaders with the leaderships of political parties to get seats for candidates from their communities. The representation of minorities in the legislatures as well as in the official lists of major political parties also remains a perennial issue. There is also the advocacy of “tactical voting” – meaning voting for the “secular” candidate most likely to win and not putting all the community eggs in one political party’s basket.

In this backdrop, while giving the demographic profile of minorities, we are also giving a brief description of the Muslims as voters. The influence of Sikhs is confined mainly to Punjab though they have some marginal influence in Delhi and perhaps some small pockets of Haryana. Christian voters do not have much clout outside Kerala and some small northeastern States. Hence, here we limit ourselves to a factual account of Muslims as voters.

Muslim-majority parliamentary constituencies

Of the 543 Lok Sabha constituencies, Muslims are in a majority in 12. Of these, 4 are in J & K, one in Lakshdweep and the rest are in Kishanganj (Bihar, 66%), Ponnani (Kerala, 66%), Jangipur (W Bengal, 59%), Murshidabad (W Bengal, 58%), Manjeri (Kerala, 56%), Dhubri (Assam, 55%) & Raiganj (W Bengal, 55%).

Parliamentary constituencies where Muslims voters are decisive in number

In Uttar Pradesh, politically one of the most important states, Muslims constitute more than 20% of the voting population in more than 34 Lok Sabha constituencies.

Table 1.4: Muslim Elected Members of Different Lok Sabhas

Year	Number of Muslims
1952	N.A.
1957	23
1962	23
1967	29
1971	27
1977	32
1980	48
1984	41
1989	29
1990	27
1996	28
1998	29
1999	32
2004	36
2009	30

Source: Compiled from Political Representation of Muslims in India 1952–2004 by Iqbal A. Ansari and for 2009 elections from some news clippings of performance of Muslim candidates in Twocirclesnet website.

1.5 Caste Composition of Religious Communities

Table 1.5: Distribution of Population of Each Religion by Caste Categories, 2004–05

Religious Community	SCs*	STs*	OBCs*	Others
Hindus	22.2	9.1	42.8	26.0
Muslims	0.8	0.5	39.2	59.5
Christians	9.0	32.8	24.8	33.3
Sikhs	30.7	0.9	22.4	46.1
Jains	0.0	2.6	3.0	94.3
Buddhists	89.5	7.4	0.4	2.7
Zoroastrians	0.0	15.9	13.7	70.4
Others	2.6	82.5	6.2	8.7
Total	19.7	8.5	41.1	30.8

Source: Compiled in the Sachar Committee Report based on National Sample Survey Organisation (NSSO) Rounds 61 and 55 data. Table 1.2 (p.7) of the Sachar Committee report reproduced here.

** Scheduled caste, scheduled tribe, other backward classes, respectively.*

While minorities in India are being discriminated against and lag behind the Hindu majority in several key respects, they have also imbibed some of the social ills of the majority community like caste inequalities. Thus, there are “minorities” among the minorities themselves. This has given rise to the demand for reservation for dalit (untouchable) Christians and dalit Muslims and the need for a constitutional amendment is being highlighted of late to facilitate this.

2. Socio-economic status of minorities

In this chapter, we mainly compile data giving a profile of the socio-economic status of minorities, mainly Muslims, and wherever data is available we have also given the comparative position of the majority Hindus as a whole as well as of minority sub-groups within Hindus like scheduled castes and scheduled tribes (SCs-STs).

Since extensive work in compiling data in this regard has already been done by the Prime Minister’s High-Level Committee to study the status of Muslims headed by Justice Rajendra Sachar, which has come out with an excellent report, we have mainly relied on this report in compiling the data on the present status of minorities in this chapter.

In addition, we have also used the findings of the National Family Health Survey (NFHS)-III (2005–06) which is based on a large sample covering more than 5 lakh² (500,000) respondents. Due to this sampling size and the statistically careful random selection of all representative groups in right proportion, the findings of this survey are expected to be reliable and in a nutshell capture the countrywide picture.

Apart from these two main sources, we have also used some findings of the Ranganath Mishra Commission report and the Dr. Gopal Singh Committee Report on Minorities brought out in 1983. Based on this status report, we will take up the question of minority discrimination in the next chapter though inevitably there is some overlap between what has been covered in these two chapters.

2.1 Workforce

Workforce Participation among Minorities

Workforce participation among Muslims is the lowest among all social categories in India. For Muslim men, the workforce participation rate is comparable to the highest. But the overall figure for the community is pulled down sharply due to very low work participation rate among Muslim women. About three-fourths of Muslim women are out of the workforce.

² One lakh is 100,000.

Table 2.1: Worker-Population Ratio, 2004-05 (Principal + Subsidiary Status, 15-64 Years)

Social Group		Urban	Rural	Male	Female	Total
Hindus	All Hindus	53.1	70.3	84.9	46.1	65.8
	SCs-STs	56.3	74.5	87.3	54.9	71.4
	OBCs	56.4	70.5	85.8	48.3	67.3
	Upper Castes	49	63.5	80.8	33.1	57.4
Muslims		51.1	57	84.6	25.2	54.9
Other Minorities		51.6	70.2	81.8	47.2	64.5
All		52.7	68.9	84.6	43.6	64.4

Source: Table 5.1 in Sachar Committee Report, p.110.

Table 2.2: Work Participation Rate by Male and Female Population among Minorities

Community	Male	Female	Total
All Religious Communities	51.7	25.6	39.1
Muslims	47.5	14.1	31.3
Christians	50.7	28.7	39.7
Sikhs	53.3	20.2	37.7
Buddhists	49.2	31.7	40.6

Sources: The First Report on Religion data - Census of India 2001.

Table 2.3: Distribution of Workers in Each Socio-Religious Category by Occupation Groups, 2004-05, (All workers aged 15-64)

Activity Status	Hindus				Muslims	Other Minorities	All
	All	SCs-STs	OBCs	UC			
Male							
Professional, Technical and Related Workers	4.1	2.1	2.9	8.1	3.0	5.0	4.0
Administrative, Executive and Managerial Workers	3.9	1.5	3.1	8.1	4.7	6.2	4.2
Clerical and Related Workers	3.6	2.2	3.0	6.4	1.9	4.3	3.5
Sales Workers	9.1	4.9	8.5	15.0	16.2	9.9	10.0
Service Workers	3.9	3.7	4.1	3.8	3.1	3.2	3.8
Farmers, Fishermen, Hunters, Loggers and Related Workers	51.5	58.3	53.9	39.7	35.8	47.7	49.5
Production and Related Workers, Transport Equipment Operators and Labourers	23.8	27.3	24.5	18.8	35.2	23.7	25.2
Total	100	100	100	100	100	100	100
Female							
Professional, Technical and Related Workers	3.5	1.4	2.3	9.9	3.8	4.0	3.7
Administrative, Executive and Managerial Workers	1.5	0.9	1.2	3.2	2.9	3.7	1.6
Clerical and Related Workers	1.1	0.4	0.8	3.1	0.5	0.7	1.2
Sales Workers	3.0	2.1	3.3	3.9	4.8	5.2	3.1
Service Workers	4.4	4.9	4.0	4.4	4.9	5.6	4.5
Farmers, Fishermen, Hunters, Loggers and Related Workers	75.6	79.7	76.9	65.4	51.5	48.4	73.7
Production and Related Workers, Transport Equipment Operators and Labourers	10.9	10.6	11.5	10.1	31.5	32.3	12.2
Total	100	100	100	100	100	100	100

Source: Table 5.12 in Sachar Committee Report, p. 119.

Table 2.4: Conditions of Work of Regular Salaried /Wage (15-64 years) by Socio-Religious Categories, 2004-05

Activity Status	Hindus				Muslims	Other Minorities	All
	All	SCs-STs	OBCs	UC			
Duration of the Contract							
No written Contract	58.2	62.9	62.6	51.7	72.8	57.3	59.4
<1 Year	2.3	1.8	2.3	2.6	1.6	2.4	2.3
1-3 Years	2.3	1.4	2.1	2.8	2.0	1.7	2.2
>3 Years	37.2	33.8	32.9	42.9	23.6	38.6	36.1
Social Security Benefits							
Only PF/Pension	9.5	9.4	8.6	10.5	6.5	9.1	9.2
Only Gratuity	0.8	0.8	0.5	0.9	0.4	0.4	0.7
Only Health Care & Maternity Benefits	1.4	1.1	1.4	1.4	1.1	1.3	1.3
Only PF/Pension & Gratuity	2.7	2.3	2.3	3.4	1.6	2.0	2.6
Only PF/Pension & health care & maternity benefits	2.7	2.4	2.5	3.1	1.9	3.1	2.7
Only Gratuity & Health Care & Maternity Benefits	1.4	1.2	1.4	1.7	1.1	1.0	1.4
Health Care & Maternity Benefits	28.1	25.2	23.7	33.5	17.0	31.7	27.3
Not eligible for any benefit	53.4	57.5	59.6	45.6	70.5	51.4	54.8
Method of Payment							
Regular Monthly Salary	90.4	87.7	87.1	94.8	81.7	93.1	89.8
Regular Weekly Payment	4.2	5.6	6.4	1.6	7.9	2.4	4.4
Daily Payment	1.1	1.3	1.7	0.5	4.2	1.4	1.4
Piece Rate Payment	2.6	3.2	3.5	1.5	4.0	1.1	2.6
Others	1.6	2.2	1.3	1.6	2.2	2.0	1.7

Source: Table 5.13 in Sachar Committee Report, p.120.

Table 2.5: Changes in Industrial and Occupational Profile of Workers of Different Socio-Religious Categories Over Time, 1993–94 to 2004–05

Years	Hindus				Muslims	Other Minorities	All
	All	SCs-STs	OBCs	UC			
Shares in Manufacturing							
2004–05	11.0	8.7	11.9	12.4	20.5	9.0	11.8
1990–00	9.9	7.5	11.0	11.1	18.1	8.0	10.6
1993–94	14.2	11.0	20.9	-	-	16.8	14.9
Shares in Trade							
2004–05	8.1	4.7	7.7	13.4	16.8	9.7	9.1
1990–00	7.6	4.0	7.5	12.1	17.8	9.4	8.7
1993–94	6.3	3.4	-	-	14.0	8.3	7.1
Shares in Administrative, Executive and Managerial Workers							
2004–05	3.5	1.4	2.7	7.7	4.5	5.1	3.7
1990–00	2.7	1.1	2.2	5.4	3.8	3.6	2.9
1993–94	1.8	0.6	-	2.3	2.8	3.1	1.9

Source: Table 5.14 in Sachar Committee Report, pp.121–122.

From these data it is clear that nearly half of the Muslim population is self-employed. But only 2.5% are employers and only one-fifth of the Muslims are regular wage earners. Only around 13% are regular wage/salary earners, marginally less compared to the proportion among all Hindus but almost at half the level of upper castes among Hindus. The proportion of Muslims in manufacturing is higher compared to all sections among Hindus including upper castes as can be seen in the next table and so also is the case for wholesale and retail trade. But this is not reflected as higher incomes as can be seen from the incomes data given elsewhere in this paper. This might be because, contrary to the general understanding that manufacturing and tertiary sectors are relatively higher productivity and higher income sectors, Muslim employment in these sectors might have the character of low-wage distress employment and they might be trapped in the low-quality segments of these sectors.

Moreover, an overwhelming share of Muslim population is in the informal sector, around 93%, much higher than among all sections of Hindus. This informalisation and casualisation of their work are important reasons for their relative backwardness. Educational deprivation and low-/limited-skills development are behind their lower presence in the organised sector and the disproportion to their population share. Over and above these are the undeniable forms of discrimination in organised sector employment/professions. This scenario underlines the urgent need for an equal opportunity law and a commission to enforce/oversee its implementation.

Any possible escape from backwardness and poverty for Muslims involves a major occupational shift from their present occupational structure. Such a shift is associated with overcoming the discrimination and hurdles for Muslims in organised sector employment, enhancing the quality of self-employment through easier availability of adequate credit at lower interest rates and removal of hurdles in their entry into higher market segments.

2.2 Employment & Unemployment

Table 2.6: Unemployment among Minorities, 2004-05

	Hindus				Muslims	Other Minorities	All
	All Hindus	SCs-STs	OBCs	Upper Castes			
Urban	8.1	10.5	8.2	6.8	8.1	10.9	8.3
Rural	8.0	10.0	7.4	6.0	8.4	10.8	8.2
Male	7.2	10.2	7.0	5.1	8.1	10.2	7.8
Female	9.0	9.9	8.8	8.0	9.2	12.2	9.2

Source: Table 5.2 in Sachar Committee Report, p.110.

Among those Muslim women who are part of the workforce (25.2%), those seeking work but are unemployed comprise 9.2%. Only SCs-STs have marginally higher unemployment than this. The figure for Other Minorities is also high because of high figure for Buddhists/neo-Buddhists who are mostly dalit converts.

Table 2.7: Muslim Employees in Government Sector Employment

Departments/Institutions Reporting	Reported Number of Employees	Reported Number of Muslim Employees	Muslims as Percentage of Reported Number of Employees
State-level Departments	4452851	278385	6.3
Railways	1418747	64066	4.5
Banks and RBI	680833	15030	2.2
Security Agencies*	1879134	60517	3.2
Postal Services	275841	13759	5.0
Universities**	137263	6416	4.7
All Reported Government Employees (Excluding Public Sector Units - PSUs)	8844669	438173	4.9
Central PSUs***	687512	22387	3.3
State PSUs	745271	80661	10.8
All PSUs	1432783	103048	7.2

Source: Sachar Committee Report, Table 9.1, p.165

Note: *CRPF, CISF, BSF, SSB and other agencies; **129 Universities (Central and State) and 84 Colleges; *** Data from 154 PSUs.

2.3 Child Labour

Child Labour among Minorities and Major Caste Groups, 2005–06

Table 2.8: Percentage of Children Aged 5–14 Engaged in Different Activities in Each Category*

	Working for Someone Who is Not a Member of the Household ¹		Household Chores for 28 Hours or More per Week	Other Family Work ²	Total Working Children
	Paid	Unpaid			
Religious Background					
Hindus	2.2	3.1	3.1	5.1	12.1
Muslims	2.8	2.1	2.9	3.6	10.8
Christians	1.3	1.5	2.7	2.5	7.4
Sikhs	1.2	4.1	2.5	2.5	9.5
Jains	0.0	3.3	0.1	3.7	7.1
Buddhists/Neo-Buddhists	2.6	1.5	1.4	5.0	9.7
Others	2.5	1.9	7.5	4.5	15.3
Caste/Tribal Background					
Scheduled Castes	2.6	2.8	3.0	4.3	11.6
Scheduled Tribes	3.6	3.3	4.5	7.3	16.6
Other Backward Castes	2.0	2.8	3.4	5.4	12.2
Others	2.0	0.9	2.9	3.2	8.6

1 Any work, paid or unpaid, for someone who is not a member of the household by children age 5–11 and for 14 or more hours by children age 12–14.

2 Includes any work on the farm, in a business, or selling goods in the street by children age 5–11 and for 14 or more hours by children age 12–14.

** Among the NFHS–III respondents.*

Source: NFHS–III, 2005–06

The educational backwardness among Muslims cannot be explained solely by the compelling need to give up education to work and earn a livelihood at a tender age due to poverty. The relatively higher dropout rate, especially among Muslim girls, shows the challenges of overcoming the barriers to education equality and advance are formidable. For reasons both external as well as internal to the community some kind of ghettoisation seems to be operating even in the sphere of education for Muslims.

2.4 Education

Table 2.9: Literacy among Minorities, 2001

Community	Female Literacy Rate	Overall Literacy Rate
Muslims	50.1	59.1
Christians	76.2	80.3
Sikhs	62.1	69.4
Jains	90.6	94.1
Buddhists	61.7	72.7
Hindus	53.2	65.1

Source: Census of India, 2001.

Literacy is lowest among Muslims, especially among Muslim women. While the largest minority community, Muslims, in India marginally lags behind the majority Hindus in literacy, the rate of literacy among all other minority communities is comparatively much higher.

Table 2.10: Literates as Proportion of Respective Community Population by Age-Groups, 2004-05

Age-Group	Hindus			Muslims	Other Minorities
	General	OBCs	SCs-STs		
6-13 Years	90.2	80.8	74.7	74.6	88.5
14-15 Years	95.7	87.5	80.0	79.5	91.9
16-17 Years	95.0	85.2	78.6	75.5	91.3
18-22 Years	91.4	76.9	65.0	70.5	85.8
23 Years & Above	74.0	50.6	36.5	46.1	67.0
Total	80.5	63.4	52.7	59.9	75.2

Source: Sachar Committee Report, Table 4.1, p.54

Not only is literacy lowest among Muslims but going by the literacy among the age-group of 6-13 years, which shows the trend in recent years, the literacy level among Muslims is at par with SCs-STs among Hindus.

Table 2.11: Proportion of Children Aged 6–14 Years Enrolled in 2004–05, All-India and States

	All Children	Muslim Children
All-India	85.3	81.8
West Bengal	85.7	82.8
Kerala	98.4	99.0
Uttar Pradesh	82.2	69.4
Bihar	70.9	65.8
Assam	90.9	87.0
Jammu & Kashmir	91.8	90.6
Jharkhand	79.4	69.2
Karnataka	88.3	90.7
Uttarakhand	90.4	61.4
Delhi	94.1	95.1
Maharashtra	90.2	91.0
Andhra Pradesh	86.5	82.4
Gujarat	84.8	78.9
Rajasthan	81.1	77.1
Madhya Pradesh	88.5	88.0
Haryana	88.8	59.7
Tamil Nadu	96.3	98.5
Orissa	82.6	90.6
Himachal Pradesh	97.3	73.7
Chhattisgarh	84.7	97.9
Punjab	90.2	89.0

Source: Sachar Committee Report, 2006

It is interesting to see that enrollment rate among Muslim children is higher compared to the overall figure for all children in Kerala, Karnataka, Delhi, Maharashtra, Tamil Nadu, Orissa and even in Chhattisgarh. In Muslim-majority J&K also, it is only marginally lower than the overall average and almost at par in Madhya Pradesh. It is mainly Uttar Pradesh, Bihar, Jharkhand and Haryana, which pull down the overall figure. Still, for the country as a whole, if one-fifth of the Muslim children are out of school, it is a grim situation indeed.

Table 2.12: Children Currently Studying as a Proportion of Population by Age Groups - 2004-05

Age Group	Hindus			Muslims	Other Minorities
	General	OBCs	SCs-STs		
6-13 Years	19.1 (17.3)	36.1 (35.5)	25.7 (27.4)	14.0 (15.1)	5.1 (4.8)
14-15 Years	24.3 (19.9)	36.1 (35.2)	21.4 (25.2)	12.2 (14.5)	6.0 (5.3)
16-17 Years	28.9 (21.1)	33.7 (35.0)	20.2 (24.7)	10.7 (14.0)	6.3 (5.1)
18-22 Years	34.0 (20.8)	30.5 (34.4)	17.7 (25.5)	10.2 (13.9)	7.6 (5.5)
23 Years and Above	35.6 (23.9)	29.2 (35.1)	18.3 (24.1)	7.4 (10.9)	9.5 (5.9)

Source: Sachar Committee Report, 2006, Table 4.4, p.72., Estimated from NSSO 61st Round

Note: Figures in parentheses report the share of each socio-religious group in the total population of that age group.

The marginal presence of Muslims of higher age-group (23 years and above) among those currently studying, which roughly coincides with their presence among higher education, brings out an ominous dimension of educational progress among Muslims. The proportion of Hindu upper castes currently receiving education in this age-group is almost five times more compared to the proportion among Muslims which is a miserable 7.4%. Even in the 6-13 age-group and other lower age-groups, the proportion among Muslim children currently studying is almost half compared to even SCs-STs. Among Muslims, even those children attending madrassas are considered enrolled. So, the actual proportion getting modernised general education might be lower still. Strangely, this is not considered an issue of “national integration”!

Table 2.13: Graduates as Proportion of Population by Age Groups - All India, 2004-05

Age Group	Hindus			Muslims	Other Minorities
	General	OBCs	SCs-STs		
20-30 Years	18.6	6.5	3.3	4.5	11.6
30-40 Years	16.8	4.6	2.3	3.3	9.2
40-50 Years	14.6	3.2	1.5	2.8	8.1
51 Years and Above	9.8	1.9	0.9	2.1	5.7
Total	15.3	4.4	2.2	3.4	8.9

Source: Sachar Committee Report, 2006, Table 4.3, p.67.

The presence of Muslims in the higher education scene is almost at half the level compared to Hindus. Moreover, this also seems to be a recent development as many Muslim graduates seem to be first-generation graduates. The educational backwardness among Muslims thus seems to be a historical legacy. For instance, in the age-group 51 years and more, the proportion of graduates among Hindu upper castes is almost five times more compared to Muslims.

2.5 Poverty

Table 2.14: Poverty among Minorities

Percentage of Population of All Minorities Living Below the Poverty Line – 1999–2000		
State	Rural	Urban
Andhra Pradesh	6.16	34.38
Assam	51.27	9.52
Bihar	46.24	42.22
Gujarat	4.27	18.29
Haryana	11.21	19.32
Karnataka	11.03	34.58
Kerala	8.44	22.13
Madhya Pradesh	23.01	39.63
Maharashtra	29.21	40.77
Orissa	49.95	58.15
Punjab	5.28	6.21
Rajasthan	14.54	22.98
Tamil Nadu	14.14	24.45
Uttar Pradesh	29.94	40.08
West Bengal	38.17	20.30
All India	23.98	30.41

Estimated from the NSSO Consumer Expenditure data of the 55th Round (1999–2000)

Source: Indian Muslim

Table 2.15: State-wise Urban Poverty Incidence among Communities, 2004-05

	All	Hindus			Muslims	Other Minorities	
		All	SCs-STs	OBCs			General
Total	22.8	20.4	36.4	25.1	8.3	38.4	12.2
West Bengal	12	10	22	13	6	27	1
Kerala	18	19	32	21	8	24	9
Uttar Pradesh	31	24	42	28	11	44	6
Bihar	36	34	65	39	8	45	4
Assam	3	3	4	5	1	5	0
Jammu & Kashmir	9	4	9	5	2	12	2
Jharkhand	18	16	37	15	5	32	27
Karnataka	30	27	52	30	13	45	9
Uttarakhand	15	14	29	20	8	24	0
Delhi	12	12	24	24	4	22	1
Maharashtra	26	20	33	25	12	49	27
Andhra Pradesh	26	25	41	27	11	35	16
Gujarat	11	10	17	18	3	24	0
Rajasthan	29	27	47	28	11	41	15
Madhya Pradesh	41	38	64	46	13	58	6
Haryana	5	5	16	5	1	6	0
Tamil Nadu	18	18	37	16	5	18	15
Orissa	43	42	69	49	22	48	49
Himachal Pradesh	2	3	3	10	1	1	0
Chhattisgarh	38	38	48	47	13	61	10
Punjab	1	2	3	2	0	0	0
All Other States	5	6	14	6	3	9	1

Source: Sachar Committee Report, 2006, Table 8.3, p.159.

Table 2.16: State-wise Rural Poverty Incidence among Communities, 2004-05

	All	Hindus				Muslims	Other Minorities
		All	SCs-STs	OBCs	General		
Total	22.7	22.6	34.8	19.5	9.0	26.9	14.3
West Bengal	25	21	27	16	14	33	32
Kerala	9	9	19	7	4	11	4
Uttar Pradesh	28	28	39	26	10	33	40
Bihar	35	34	56	29	13	38	33
Assam	18	12	14	16	7	27	20
Jammu & Kashmir	3	3	4	0	2	4	0
Jharkhand	38	38	49	32	17	36	46
Karnataka	14	14	21	14	7	18	1
Uttarakhand	11	12	17	19	7	8	21
Delhi	-	-	-	-	-	-	-
Maharashtra	23	22	44	16	13	21	36
Andhra Pradesh	8	8	16	6	2	7	4
Gujarat	14	15	24	14	3	7	6
Rajasthan	16	16	28	9	6	11	15
Madhya Pradesh	30	31	45	22	6	25	2
Haryana	9	9	21	7	2	24	6
Tamil Nadu	17	17	23	14	14	10	18
Orissa	41	40	60	30	16	22	70
Himachal Pradesh	8	8	16	7	4	4	6
Chhattisgarh	33	33	40	27	26	40	11
Punjab	6	4	4	7	3	4	6
All Other States	12	18	29	12	10	22	3

Source: Sachar Committee Report, 2006, Table 8.4, p. 160.

From these data one can see that urban poverty among Muslims is greater than rural poverty except in some states like Assam, Jharkhand and Haryana. Considering the higher proportion of urbanisation among Muslims, a considerable number of urban Muslims are living a life of penury.

Their occupational confinement to low-income artisan work which is declining, petty trade smarting under the entry of big capital in retail trade, market imperfections restricting their entry into different urban market segments freely because of their religious background,

hurdles in getting employment because of their being Muslims, very low percentage of entry of Muslim women into the labour market and consequent limitations on increase in the family income etc., could be the reasons behind this. Only SCs-STs have greater incidence of poverty than Muslims in many States. But in West Bengal, with a high proportion of Muslim population, the incidence of poverty among Muslims is higher than among SCs-STs in both urban as well as rural areas.

So is the case in urban areas of Uttar Pradesh. Since it is clear from the poverty data that there are unique reasons other than geo-spatial ones for higher incidence of poverty among Muslims, it is clear that apart from the general anti-poverty measures, some custom-made poverty alleviation measures are needed to lift Muslims out of the morass of poverty.

2.6 A Survey of Muslim Women³

The Muslim Women's Survey (MWS) was carried out in 12 states, spread over 40 districts in India. Conducted by Zoya Hasan and Ritu Menon, it surveyed 9,541 Muslim and Hindu women respondents -- 80% Muslim and 20% Hindu; 60% urban, 40% rural. This survey was published in the Infochange website and we reproduce it here.

2.6.1 Fewer Muslim girls in the classroom

Close to 60% of Muslim women report themselves to be illiterate while the general enrolment rate in schools for Muslim girls is 40.66%. The proportion of illiterate Muslim women among those surveyed is substantially higher for the rural north than it is for the rest of India -- more than 85% report themselves to be illiterate.

Less than 17% of Muslim women (enrolled in schools) completed eight years of schooling; less than 10% completed higher secondary schooling, which is below the national average.

The educational status in the north is abysmal, resulting in substantially fewer numbers in middle school and higher secondary school (4.58 and 4.75 respectively) as opposed to the national average of 17.86 and 11.42.

The proportion of Muslim women in higher education is only 3.56%. That is lower than even that of SCs, which is 4.25%.

Urban location, which has a generally positive association with female education, has no great impact on Muslim women's educational attainment. This points to poverty as the foremost constraint on access to education, notwithstanding the noticeably greater educational opportunities in urban areas.

³ Based on the ORG-Marg MWS carried out in 2000-2001

Of the women who completed their studies, 26% felt that they had to overcome obstacles in order to continue. On the whole, a slightly higher proportion of Muslim women than Hindu women reported that they faced obstacles in their schooling.

A general devaluation of continuing education for girls is also linked to the desirability of early marriage, as indicated by the mean age of first marriage, which is a low 15.6; in the rural north it dips even further, to 15 years. Early marriage was cited as an important reason for dropping out of school.

2.6.2 Muslim women at work

The overwhelming majority of women reported themselves as not working. Importantly, the low work participation pattern holds for all regions. Among social groups, Muslims and upper caste women participate the least, as compared to SCs (30%) and OBCs (22%).

The average rate of participation for Muslim women is 14%, which in itself is lower than for Hindus (18%) and significantly lower than that of scheduled castes (37%), and OBCs (22%).

Among Muslim women who report work participation, the largest proportion is in the wage worker/employee category, followed by self-employed women. For example, the work participation for urban Muslim women is 11.4%, while it is 16% for Hindus. Rural work participation is only 20% for Muslims and 37% for Hindus.

Like their male counterparts, a majority of urban Muslim women (60%) are self-employed. Few are employed in the formal sector.

2.6.3 Lack of awareness about welfare schemes

The vast majority of women surveyed across zones, irrespective of education levels, claimed to be unaware of any programmes directed towards women. The advantages of most government schemes, which over the years have specifically targeted women, have generally not accrued to them.

Lack of information is an important reason why most welfare provisions pass women by -- most women did not know of the existence of special loans and grants to widows, for example, or of credit facilities.

Less than 20% of respondents had access to the printed media. More than 50%, however, was illiterate so that even if they do have access they would be unable to read. A much larger percentage, 42%, watch television and the more educated women do report watching issue and women-oriented programmes.

2.6.4 Wedding bells that ring too early

According to the survey, 88% of Indian women are currently married; there are slightly more Muslim women (86%) than upper-caste Hindus (84%) in this category. Sixty% of Muslim and 55% of Hindu women are married by the age of 17. Women with low educational levels -- illiterate or educated up to the primary level -- across regions and religions are more likely to be married below the legal age, compared to women with medium or high levels of education.

The survey reports that the all-India mean age of first marriage is 15.6 years -- almost a whole year lower than the NFHS.

A majority of women, over 70%, believe that the ideal marriage age for girls corresponds with the legal minimum age or above. Across the country, the occurrence of delayed marriage increases with better standards of living.

Low socio-economic status and low levels of educational achievement are consistent with early marriage for girls, Hindu and Muslim, across the country; higher educational status generally makes for later marriages -- within the age group 18-20 -- and women who have never married are definitely more likely to have a higher socio-economic status.

2.6.5 It's her womb, but it's his decision

A woman's educational level does not seem to have an impact on her decision making, either for better or for worse. But her socio-economic status has a negative correlation with a rise in economic status: the higher the status, the lower a woman's decision-making powers.

There does seem to be a generational shift, though, with younger women reporting greater decision-making abilities. Rural women report the lowest levels, as do women from eastern parts of the country. The western region reports the highest levels, urban and rural, as concerns decision-making.

Over 50% of respondents said they were consulted about all decisions regarding household and consumption expenditure, marriage and birth and death ceremonies. This consultation, however, declines noticeably with regard to major illnesses, major purchases and investments, and travel.

The significant community difference here is that Muslim women report greater consultation than Hindus for all categories, especially for major purchases and investments.

Given the central role of marriage and motherhood in the lives of Indian women, the question of decisions regarding family size is important. The question posed to respondents was: Have you and your husband ever discussed the number of children you would like to have? All-India, a rather high 56% said they had; 43% said no.

A clear generational shift is evident in the responses: 62% of women in the 18-35-year age group said yes, as did 46% in the 35-40-year age group. Only 14% among the 60-90-year-olds agreed.

Conforming to the usual pattern, urban women report greater discussion than rural women. The survey found a positive correlation between education and marital communication, even in rural India.

Decisions about how many children to have are, on the whole, taken jointly by the couples themselves, in 38% of the cases, and by the husbands alone in 30%. The sharp and significant difference is in the proportion of 'husbands alone' and 'wives alone' deciding 30% compared to 2.5%.

The fact that joint decision-making is slightly higher than unilateral decisions taken by husbands is a positive indicator. But it does not necessarily follow that women are equal partners in decision-making or that they have any real choice in the matter.

2.6.6 Earning a living

The questions posed to respondents on the extent of mobility they enjoyed encompassed a combination of activities including personal, social, familial, political, economic and work and health-related activities.

A very high 70% of women, Hindu and Muslim, all-India, across classes, reported that they needed permission to go to work. A staggering 86% said they needed permission from their husbands for all activities.

Unmarried girls seek permission from their fathers, and married women from their husbands and in-laws. Older women may even need permission from their sons for certain activities.

Community differences are negligible, although a greater percentage (75%) of Muslim women than Hindu women (69%) reported needing permission to work.

2.6.7 Exposure to domestic abuse

The MWS reported that approximately 20% of respondents experienced verbal and physical abuse in the marital home; over 80% of this is at the hands of their husbands.

The figures for Muslims and Hindus are strikingly similar both in the NFHS Survey and the MWS, although the MWS shows that Hindu women experience greater levels of violence than do Muslims in all four zones.

Rural women are worse off than urban women; poorer women, apparently, worse off than better-off women. Women in the north and east of the country face more violence than those in the south and west.

The incidence of domestic violence appears to decrease with rising standards of living. But this may be because more educated, better-off women are less inclined to report domestic violence.

The figure for Muslim women reporting abuse stood at 18%, backward castes at 24%, and caste Hindus at 10%.

The lower figure for the latter should not lead us to assume that the incidence of violence among caste Hindus is lower, rather that high-caste Hindu women are less likely to report violence.

The commonest and most prevalent form of conflict reported was verbal abuse -- in the country as a whole it accounted for 63% of all domestic abuse.

Age-wise, at the all-India level, the highest proportion of women reporting domestic conflict is in the 25-45-year age group. This proportion (23.15%) is also higher than the national average (20.74%).

Variations among Muslims women, however, are the most interesting and important. Close to 57% of respondents in the youngest age group, 18-20 years, reported that they were ill treated physically by their parents, 11% said they were abused by their brothers.

Husbands continue to be the ones responsible for maximum violence in the age group 20-60 and above, but a good 14% of those between the ages of 45 and 60 blamed their sons for physical violence.

2.7 Some Data on the Status of Minority Women

Table 2.17: Sex Ratio among Religious Communities

Sex Ratio (Females per 1,000 Males) Age-Group 0-6	
Total	927
Christians	964
Muslims	950
Buddhists	942
Hindus	925
Jains	870
Sikhs	786
Others	976

Source: Census of India, 2001.

Table 2.18: Female Literacy

Female Literacy Rate (Percent)	
Total	54
Jains	91
Christians	76
Sikhs	63
Buddhists	62
Hindus	53
Muslims	50
Others	33

Source: Census of India, 2001.

Table 2.19: Distribution of Persons by General Education, Sex and Religion, Urban India, 1987-88 (percent)

Education Level	Hindus		Muslims		Christians	
	Male	Female	Male	Female	Male	Female
Not Literate	25.3	42.2	42.4	59.5	18.8	22.7
Primary	18.8	17.2	20.9	18.5	16.0	17.5
Middle	30.5	25.3	26.3	16.8	36.7	33.4
Secondary	17.2	10.7	8.0	4.3	20.1	20.8
Graduate	7.9	4.2	2.3	0.8	8.1	5.5

Source: NSS 43rd Round, 1987-88

Table 2.20: Female Labour Force Participation

Female Labour Force Participation Rate (Percent)	
Total	26
Buddhist	32
Christian	29
Hindu	26
Sikh	20
Muslim	14
Jain	9
Other	44

Source: Census of India, 2001

Table 2.21: Percentage of Muslim Women Workforce in Different Categories of Work

Total Women Workers	Cultivators	Agricultural Labourers	Household Industry Workers	Other Workers
9,409,880	2,069,248	2,900,270	1,812,346	2,628,016
(Percentage) 100	2.2	30.8	19.3	27.9

Source: Census of India, 2001

Table 2.22: Employment Status of Hindu and Muslim Women

Class	Employed	Not employed	Total
All Muslim women	2280 (16.47%)	11563 (83.53%)	13843 (100%)
All Hindu women	37565 (36.48%)	65402 (63.52%)	102967 (100%)
By residence			
Rural Muslim	1236 (17.68%)	5759 (82.32%)	6995 (100%)
Rural Hindu	27141 (41.28%)	38606 (58.72%)	65747 (100%)
Urban Muslim	970 (14.17%)	5878 (85.83%)	6848 (100%)
Urban Hindu	7852 (21.10%)	29368 (78.90%)	37220 (100%)
By education			
Muslim uneducated	1447 (18.03%)	6581 (81.97%)	8028 (100%)
Hindu uneducated	24434 (44.01%)	31082 (55.99%)	55516 (100%)
Muslim primary educated	450 (13.59%)	2865 (86.41%)	3315 (100%)
Hindu primary educated	5505 (27.75%)	14328 (72.25%)	19833 (100%)
Muslim post-primary	327 (13.06%)	2173 (86.94%)	2500 (100%)
Hindu post-primary	5169 (18.72%)	22449 (81.28%)	27618 (100%)
By region			
Muslim North	170 (21.51%)	621 (78.49%)	791 (100%)
Hindu North	4062 (30.06%)	9452 (69.94%)	13514 (100%)
Muslim Central	633 (13.94%)	3909 (86.06%)	4542 (100%)
Hindu Central	8911 (29.07%)	21739 (70.93%)	30650 (100%)
Muslim East	159 (8.98%)	1607 (91.02%)	1766 (100%)
Hindu East	2787 (22.62%)	9535 (77.38%)	12322 (100%)
Muslim South	943 (25.03%)	2824 (74.97%)	3767 (100%)
Hindu South	12323 (51.42%)	11642 (48.58%)	23965 (100%)
Muslim West	353 (22.56%)	1212 (77.44%)	1565 (100%)
Hindu West	6802 (46.79%)	7737 (53.21%)	14539 (100%)
Muslim NE	101 (7.16%)	1311 (92.84%)	1412 (100%)
Hindu NE	1364 (17.10%)	6613 (82.90%)	7977 (100%)

Note: Count among the NSSO surveyed women and figures within brackets are percentages.

Source: NSS 50th round, 1993-94

3. Areas of Discrimination

3.1 Political Discrimination

3.1.1 Discrimination thrives in a climate of insecurity faced by minorities

Minorities in general and Muslims and Christians in particular live in a high state of insecurity all over India and the level of insecurity is particularly high in certain regions marked by either conflict or strong presence of Hindu right-wing forces. A general status as second-grade citizens marks their existence and their suffering is not limited to just discrimination in employment and education, but even in political power and state assistance.

A history of repeated cycles of violence against them, absence of adequate protection from the state authorities, especially in States ruled by the Bharatiya Janata Party (BJP), frustrating delays in getting justice from the courts, constant threats and provocations from the Sangh Parivar⁴ outfits, discrimination in all spheres of life and denial of minority rights etc., have left them highly vulnerable and hence insecure. The Muslim and Christian masses in general are highly vulnerable to organised communal violence against them. Those who live in parishes and other Church establishments in Orissa and Karnataka, those who have converted to Christianity in Gujarat and Orissa, nuns and those in seminaries in Madhya Pradesh, and Muslim political activists belonging to parties opposed to the BJP in Uttar Pradesh and Gujarat, Muslim youth and musclemen who are capable of retaliating, businessmen/traders from the minorities who are targets of business rivalry etc., are even more vulnerable. Most of them face threats and blackmails on a day-to-day basis. Some of them face harassment from the administration as well, sympathetic to the Hindu Right in some States and exhibiting sheer indifference in some other States.

A state of insecurity among minorities is often deliberately created or consciously maintained either by forces who want to communally polarise the situation to gain electoral benefits or by those who pose as their only saviours so as to ensure their votes en bloc.

Political discrimination of minorities should thus be seen not just as flowing from the bias of the predominantly Hindu-dominated state administration. Primarily, it should be looked at in the context of the consciously generated -- and sustained -- sense of insecurity by political vested interests with political motives. The notion that a “secular” state and rapid economic development by themselves would guarantee a secular polity and greater social integration/cohesion is a myth as clearly established by the experience of rapidly developing Gujarat where the state machinery itself has proved to be rabidly communal. The same is true in the case of newly industrialising Orissa, where the Chief Minister is supposed to be a “secular” and “modern” man unlike the extreme right winger heading Gujarat.

⁴ The Sangh Parivar refers to the family of organisations of Hindu nationalists which have been started by volunteers of the Rashtriya Swayamsevak Sangh (RSS) or are inspired by its ideals.

This kind of political discrimination does not prevail in an ideological vacuum but in a constantly regenerated ideological climate of stereotyping of minorities, spreading and perpetuating of ideas of bias and hate against them, and of reviving and invoking conservative and fundamentalist religious ideas for the sake of communal political polarisation. These ideas are spread at all levels – from school textbooks to media portrayals, and in public speeches and the political discourse – by stereotyping and profiling, by demonising the minorities and projecting them as responsible for grabbing away jobs and other public resources of majority Hindus or even by whipping up feelings of jealousy where they are educationally or economically more advanced, relatively, or politically well-positioned. The false impression is meticulously created that they have gained all these at the expense of the “majority”, mainly through state appeasement for the sake of “votebank politics”. Handouts and sops given to the majority are interpreted as a matter of “natural right” and those extended to the minorities are denounced as “appeasement”. Stereotyping – say, of Syrian Christians as rich because of grabbing disproportionate privileges from the state through their influence – and profiling – say, of all Muslims as intolerant jihadis driven to violence by their religious faith – are important ideological preconditions for imposing discrimination against a group and creating an overall political atmosphere conducive for that. The fight for equality and against discrimination against the minorities is thus primarily a political fight, not just to be waged in the realm of electoral politics but at various levels.

3.1.2 Weak criminal jurisprudence paves way for political discrimination

Weak criminal jurisprudence, especially in the context of communal, sectarian, hate and bias crimes, and even weaker investigation and prosecution machinery of the state machinery, leaving leaving the minorities and vulnerable castes/tribes insecure and persecuted without any hope for quick justice is itself a form of discrimination by the state. Communal violence as a means of communal politicisation and hate politics thrives in the backdrop of a certain legal vacuum.

In the absence of stringent laws and crime control, the rabble-rousing leaders – the Narendra Modis, Promod Muthaliks, Raj Thackerays and Varun Gandhis⁵ – weigh the benefit of media glare and political mileage and the cost of possible punishment under the weak laws and boldly engage in provocative acts or public statements with impunity. The rare legal punishment they sometime get pales into insignificance in the face of political mileage derived in terms of the communal political polarisation which is sort of a “vote insurance” politics in the name of countering the so-called “votebank politics”. The existence of a very large space for violent and criminal politics of bias and hate itself amply proves that the Indian democracy is based on discrimination.

⁵ Narendra Modi is the BJP Chief Minister of Gujarat. Promod Muthalik is the leader of Sri Rama Sene, mainly based in Karnataka and which was responsible for the Mangalore pub attacks on women, while Raj Thackeray is the leader of Maharashtra Navnirman Sena, a splinter party of Shiv Sena. Varun Gandhi is the BJP leader and son of former minister Menaka Gandhi and Congress leader late Sanjay Gandhi, second son of Indira Gandhi.

3.1.3 Discrimination in political representation

Political discrimination is the foremost form of discrimination against the minorities. Their share in power is systematically curtailed. Targeting minorities for their political disempowerment is the way for rightwing vested political interests to establish their own hold over the majority to grab monopoly over power. Power asymmetry at the social level as well as in influence and control over the state is ultimately the most decisive form of discrimination, which perpetuates and accentuates all other forms. It operates on several levels – reducing representation for minorities in electoral lists, especially by invoking the bogey of “votebank politics”, curbing representation in the bureaucracy and judiciary and in the armed forces and police machinery and, above all, in marginalizing the minorities from acquiring social and media power and narrowing down their social and public space.

3.1.4 The bogus allegation of vote-bank politics

Jockeying for seats and ministerial berths is the characteristic feature of democracies. Identities and social groups are turned into power groups, often masquerading as “interest groups”, only to deliver greater gains to the power-brokers who supposedly represent the social groups. Whatever it is, lobbying for a greater share in power with the strength of their numbers and votes is perhaps the essence of democracy. But, if minorities do it, then it becomes “votebank politics”.

The Hindu Right’s opposition to the so called “votebank politics” is not because the minorities have grabbed a disproportionately greater share of power than what is due for them. Rather, they are opposed to this very substance of democracy itself where power is supposedly shared in a relatively broader, even if not egalitarian, manner by all groups and they want monopoly over power as a majoritarian privilege. The logic behind the sectarian and chauvinistic opposition to even limited representational and power-sharing character of democracy is clear: no power to minorities because there should be no reservation, no welfare spending on minority development, no special treatment in their favour just because they lag behind or remain backward and so on.

But the Indian reality is that even the marginal share the minorities obtain in political power does not put an end to multi-faceted discrimination. It is important to keep in mind that there is asymmetry between political power, on the one hand, and economic clout, educational eminence, sheer numbers or cultural progress in general, on the other. Also, the symbolic and tokenist representation is a mirage. An Abdul Kalam⁶ hardly made any difference to the condition of Muslims just as some Pratibha Patil⁷ today hardly makes a difference to the lot of women.

⁶ 11th President of India (2002-2007), Muslim

⁷ 12th and current President of India, female.

3.2 Indirect Forms of Discrimination by the State

Discrimination by the state also assumes indirect forms that are not so glaring. For instance, lack of inclination to have a stringent law against communal violence and not passing even a very mild Communal Violence Bill and preference for a soft approach to communal crimes and treating extreme right wing politicians like Bal Thackeray⁸, Raj Thackeray and Narendra Modi etc., with kid gloves – often passed off as a liberal approach by a minimalist state – would only amount to deliberate failure to mete out justice to hounded minorities and hence can only be characterised as conscious discrimination by the state.

Just look at the state's response to hate crimes at the time of elections and at normal times. Only in a politically charged situation the law on sowing discord among communities is being invoked, mostly at the behest of the autonomous authority of the Election Commission, say, to book a Varun Gandhi. But the administration does not react with such alacrity during normal times, not only in States where the administration is under the political leadership of the Hindu Right or its allies like Karnataka or earlier in Orissa.

Even the administrations under the opposition-ruled States like Kerala, Tamil Nadu and Andhra Pradesh turn a blind eye to the day-to-day activities of the Bajrang Dal⁹ or the Vishwa Hindu Parishad¹⁰ (VHP). Even if the situation does not warrant banning of these outfits, stringent action can always be taken against their hate-motivated activities on the basis of the existing law as the election-time crackdowns show.

Even when the administration resorts to some token measures in a politically charged situation as against Raj Thackeray in Maharashtra, it only plays into the hands of the Hindu Right which indulges in such activities precisely to make this the key political issue and polarise the situation on that basis. Thus, even taking some symbolic action only plays into the hands of the forces of hate and serves their objectives.

Discrimination between different situations by the administration thus deprives the administrative measures of their deterrent value and what is needed is not some ad hoc measure at the discretion of some local officials but effective deterrence through stringent laws which cover not only hate-motivated crimes but even the wider gamut of bias-motivated crimes. These laws can then be invoked by any citizen, whose enforcement is monitored by some autonomous authority akin to the Election Commission (EC).

Unfortunately, except in the case of dalits where abuse using casteist expressions can invite cases under the Protection of Civil Rights (PCR) Act, there is no law covering such hate- or bias-motivated acts against individuals hailing from among Muslims or Christians, leave alone tribals or women, disabled or sexual minorities. In fact, many such acts do not qualify as crimes under the prevailing penal code. Even in the case of dalits, the PCR laws do not

⁸ Founder and chief of the Shiv Sena, a Hindu nationalist party active mainly in the state of Maharashtra.

⁹ A right-wing Hindu organization, the youth wing of the Vishwa Hindu Parishad (VHP)

¹⁰ Or World Hindu Council, an international Hindu organization founded in India in 1964.

cover bias-motivated discrimination in employment, wages, industrial/labour relations, market relations and so on.

For instance, if Hindus refuse to allow Muslims to bury their dead in their areas dominated by them in Goa there is no special law against bias-motivated crimes to check this. When VHP-Bajrang Dal hoodlums vandalise Christian cemeteries in Andhra Pradesh, the police there file minor cases of destruction of public property against the culprits!

Even where the law is supposed to address hate crimes, the charge of sowing discord among communities carries a subjective element which is often difficult to prove by the prosecution. Moreover, they incorporate the aspect of hate to some extent but not the element of bias. So, at best, it acts as a prohibitive instrument/power in the hands of a willing administration and the action serves more as preemptive action and really an effective or durable legal deterrent.

There are no comprehensive rules framed under the existing limited law codifying specific acts that can cause enmity between communities to the extent of disrupting peace and public order. Many acts like throwing beef before a temple or pork before a mosque, blaring music at the time of a funeral or religious procession of the other community, are prototype crimes but non-prototype crimes other than hate speeches sensationalised by the media seldom get covered.

Even the so-called secular parties which enjoyed majorities in the parliament and different State assemblies discriminate in favour of “votebank politics” and token gestures/postures like dancing with tribals than enacting stringent deterrent laws. Even in West Bengal there is no such law despite thirty two years of Left rule and despite rampant bias-motivated crimes against Bangladesh Muslim refugees in all spheres of socio-economic life in that state.

Contradictory pulls are characteristic of democracy. From electoral considerations, major parties are sometimes forced to promise reservation to dalits in the private sector but the industry chambers oppose it tooth and nail, invoking the same liberalisation and competitiveness logic of the rulers. Some parties promise reservations to Muslims or dalit Christians but the courts invoke the vague text of the Constitution only to bury the spirit of it. But the Constitution nowhere lays down that “Equal Opportunities” are applicable only in government jobs and admissions to government-run educational institutions and that too only to castes and not other backward categories/classes like minority religious communities.

Discrimination gets institutionalized in the state structure itself by the underdevelopment of egalitarian jurisprudence. In sum, the structures of the status quo in a democracy ultimately prevail to counteract the popular pressures so as to perpetuate inequalities and hence the discriminatory practices and this after all is the true relevance and meaning of the inbuilt “checks and balances” devices of a distorted democracy.

3.3 Under-Representation in Employment

In the central government, Muslims constitute 1.6% of all Class I officers, 3.9% of all Class II officers and 4.4% of all technical supervisory staff. Muslims have only 6.4% of representation in government jobs at the all-India level despite the fact that they account for 13.4% of the population of the country. Worse, in West Bengal Muslims have only 4.2% placements in State government jobs even though they comprise 25% of the State's population.

We have already argued that inequality in employment, the unequal representation of different communities, and the under-representation of some minorities and oppressed caste groups, is not accidental and cannot be justified in the name of differential levels of merit and skills, uneven spread of education etc. Invariably an element of discrimination operates, especially when a policy of non-discriminatory recruitment is absent on the part of the State as well as the private sector.

If the representation of Muslims is barely one-fourth their share in the population or less in top layers of the all-India bureaucracy, can it be justified under the pretext of absence of competent candidates from this largest minority group? Even if they get elbowed out by the larger number of toppers from the numerically far stronger majority community, this is all the more the reason for earmarking certain percentage of posts for specific communities and regions. In a diverse society and supposedly a plural democracy, competitiveness and merit can never be the rationalizations for ultimate domination of one social group over others, enjoying hereditary dominance. Let us get a glimpse of under-representation of minorities in various spheres of employment.

3.4 Under-Representation in All-India Services

Table 3.1: Representation of Minorities in All-India Services till 1980

Service	Total No. of Officers	No. of Muslims	No. of Christians	No. of Sikhs
IAS	3975	128 (3.22)	109 (2.747)	165 (4.15)
IPS	2519	579 (2.64)	49 (2.26)	117 (5.41)
IFS	1433	45 (3.14)	23 (1.60)	44 (3.07)
Total	7567	230 (3.04)	181 (2.39)	326 (4.31)

Source: Dr. Gopal Singh Report on Minorities, 1983, p.33.

Note: Percentage to the total in brackets.

Table 3.2: Representation in Railways

Category	Hindu OBCs	Muslim General	Muslim OBCs
Higher Positions	2.8	2.8	0.2
Lower Positions	9.4	4.5	0.4
Total	9.3	4.5	0.4

Source: Appendix Table 10.3 in Sachar Committee Report

Table 3.3: Disproportionate Representation Across the Board in Government Services

Muslim Employment in Government Sectors (%)	
Total	4.9
PSUs	7.2
IAS, IFS, IPS	3.04
Railways	4.5
Judiciary	7.8
Health	4.4
Transport	6.5
Home Affairs	7.3
Education	6.5
Proportion of Muslim Population in the Country	13.4

Source: Compiled from various tables in the Sachar Committee Report

3.5 Under-Representation in State Services

The share of Muslims in state government employment is one-third to one-half their share in the State population in all major states except Karnataka, Andhra Pradesh and Tamil Nadu where this share is slightly more than half. But nowhere is their share in the state government employment proportionate to their share in the state's population.

Table 3.4: Share of Muslims in State Government Employment

State	Share of Muslims in State Population (%)	Total No of State Government Employees	Share of Muslims in State Government Employment (%)
West Bengal	25.2	134972	2.1
Kerala	24.7	268733	10.4
Uttar Pradesh	18.5	134053	5.1
Bihar	16.5	78114	7.6
Assam	30.9	81261	11.2
Jharkhand	13.8	15374	6.7
Karnataka	12.2	528401	8.5
Delhi	11.7	135877	3.2
Maharashtra	10.6	915645	4.4
Andhra Pradesh	9.2	876291	8.8
Gujarat	9.1	754533	5.4
Tamil Nadu	5.6	529597	3.2
Sum of these Major States	15.4	4452851	6.3

Source: Appendix Table 9.4 in Sachar Committee Report, p. 370

3.6 Under-Representation in Other Key Organs of the State

The argument that greater representation for minorities in judiciary would ensure more favourable judgements in favour of minorities is absurd and this argument challenges the very integrity of judiciary. The question of fair representation for minorities arises on different grounds. Firstly, in a situation where allegations of communalization of a large section of the state machinery, including the judiciary are rife and often not without justification considering some of the religiously biased observations by even judges in the higher judiciary like the Allahabad High Court¹¹, a fair representation of minorities on the benches will restore the confidence among the minorities about the impartiality of the courts. Secondly, peer pressure will act as a check against some communally-motivated elements in the judiciary and help in greater self-imposed collective judicial accountability.

At the time of this writing, a body no less than the Human Rights Commission of Rajasthan has alleged that “biased and prejudiced” policemen publicly caned Muslim youths at the behest of some “Hindu organizations” following a communal clash in the town of Savarkundla, Saurashtra, in January 2009. The role of Gujarat policemen in the 2002 communal carnage is well known and some of them are being brought to book by the Supreme Court though belatedly.

Right from the days of Maliana massacre¹² by the notorious and highly communalized Provincial Armed Constabulary of Uttar Pradesh to the Bhagalpur carnage¹³ abetted by the Bihar police, the role of the police in communal contexts has always remained controversial. Some people have advocated that greater composite character in the social composition of the police force would mitigate this malady to some extent.

Table 3.5: Representation in Central Security Agencies

Category	Hindu OBCs	Muslim General	Muslim OBCs
Higher Positions	4.6	0.4	3.2
Lower Positions	11.7	1.0	3.6
Total	11.4	1.0	3.6

Source: Appendix Table 10.3 in Sachar Committee Report, p. 378

¹¹ “It is the duty of every citizen of India under Article 51-A of the Constitution of India, irrespective of caste, creed or religion, to follow dharma as propounded by the Bhagvad Gita”, observed Justice S N Srivastava on 30 August 2007, while hearing a case filed by Shyamal Ranjan Mukherji, a priest at the Gopal Thakur Mandir in Varanasi.

¹² In 1987, as a fall out of Maliana riots, 19 Provincial Armed Constabulary (PAC of Uttar Pradesh) personnel had allegedly shot dead 40 Muslim youth from the Muslim neighbourhood of Hashimpura in Meerut. The police rounded up Muslim families, herded into trucks and shot them in cold blood.

¹³ Occurred in October 1989 in which nearly 1,000 persons from the minority community were killed. The Bihar Police allegedly joined the marauders in acts of arson, looting and butchering innocent persons from the minority community.

Table 3.6: Muslims in Police Force in some Major States

State	Percentage of Muslims in the Population of the State	Percentage of Muslims in Police Force
Andhra Pradesh	9.17	13.25
Assam	30.92	10.55
Bihar	16.53	5.96
Gujarat	9.06	5.96
J & K	66.97	56.26
Karnataka	12.23	6.71
Kerala	24.70	12.96
Maharashtra	10.60	4.71
Tamil Nadu	5.56	0.11
Tripura	7.95	2.01
Uttar Pradesh	18.50	4.24
West Bengal	25.25	7.32
Delhi	11.72	2.26

Source: Census 2001 & National Crime Records Bureau 2004 data
Under-representation in public sector industry

Table 3.7: Share of Muslims in State Public Sector Units

State	Higher Positions	Lower Positions
West Bengal	1.2	6.3
Kerala	9.5	11.1
Uttar Pradesh	6.2	5.3
Bihar	8.6	6.4
Karnataka	8.6	9.9
Delhi	2.1	5.6
Maharashtra	1.9	1.1
Gujarat	8.5	16.0
Tamil Nadu	3.2	2.6
Sum of these Major States	7.4	9.9

Source: Appendix Table 9.11 in Sachar Committee Report, p. 372

3.7 Discrimination in Access to Bank Credit to Minorities

Table 3.8: Priority Sector Advances extended to Socio-Religious Categories (SRCs) by Type of Bank in India and 44 Selected Minority Concentration Districts (Average of 5 years ending 31 March 2001 to 31 March 2005)

Parameter	Public Sector Banks			Private Sector Banks		
	Muslims	Other Minorities	Others	Muslims	Other Minorities	Others
[a] All Districts in India						
No. of Accounts (% of Total)	12.2	8.1	79.7	11.3	10.5	78.2
Amount outstanding (% of Total)	4.6	6.3	89.1	6.6	7.9	85.5
Amount outstanding per Account (Rs./account)	19837	40686	59055	111634	201840	274911
% Share in Population	13.4	5.6	80.9			
[b] 44 Minority Concentration Districts						
No. of Accounts (% of Total)	21.3	5.0	73.7	20.7	14.9	64.4
Amount outstanding (% of Total)	7.9	3.7	88.4	9.9	7.7	82.4
Amount outstanding per Account (Rs./account)	20343	40203	64665	108435	114971	330103
% Share in Population	32.8	2.0	65.2			

Source: Sachar Committee Report, 2006, Table 6.1, p. 125.

Table 3.9: Priority Sector Advances of All Scheduled Commercial Banks for the Minorities by States (Annual Average for 5 years' ending 31st March 2001 to 31st March 2005)

State (Population shares)	Total Minorities		Muslims		Other Minorities		Others	
	No. of A/ Cs (000)	Amount Rs.Cr.	% share in A/Cs	% share in amount	% share in A/Cs	% share in amount	% share in A/Cs	% share in amount
West Bengal (25.2; 2.1)	2192	10172	29.3	9.2	0.9	0.7	69.8	90.1
Kerala (24.7; 19.0)	2757	10788	21.6	15.8	27.0	22.2	51.4	62.0
Uttar Pradesh (18.5; 0.8)	3295	18209	16.3	8.6	4.0	3.8	79.7	87.6
Bihar (15.9; 4.4)	2413	4447	12.8	7.0	2.5	1.9	84.7	91.1
Assam (30.9; 4.1)	245	1461	16.9	7.9	3.0	2.1	80.1	90.1
J & K (67.0; 3.4)	249	1387	41.1	54.4	34.9	5.6	24.0	40.1
Karnataka (12.2; 2.9)	2271	17920	10.6	4.7	3.3	2.2	86.0	93.2
Delhi (11.9; 5.1)	239	18073	4.2	0.5	8.5	2.7	87.2	96.8
Maharashtra (10.6; 7.6)	1934	34820	6.0	2.0	6.6	2.3	87.4	95.7
Andhra Pradesh (9.2; 1.6)	5500	19639	7.5	2.8	3.6	1.6	88.8	95.6
Gujarat (9.1; 0.7)	1087	9485	12.4	2.6	0.9	0.6	86.7	96.8
Rajasthan (8.5; 1.6) (8.5; 1.6)	1238	9572	7.2	3.0	3.5	4.5	89.3	92.4
Madhya Pradesh (5.2; 1.9)	2543	11074	17.4	3.1	2.6	1.6	80.1	95.3
Haryana (5.8; 5.7)	682	7455	2.6	0.7	10.1	5.4	87.3	94.0
Tamil Nadu (5.6; 6.1)	7318	22989	9.6	6.6	7.5	3.9	82.9	89.5
Orissa (2.1; 3.5)	1186	4789	5.4	2.0	2.7	1.8	91.9	96.2
Himachal Pradesh (2.0; 2.6)	229	1368	2.0	0.6	3.3	2.6	94.8	96.8
Punjab (1.6; 61.3)	1047	15072	1.1	0.3	63.5	42.4	35.4	57.3
Other States (5.6; 45.0)	1053	7498	7.8	2.8	12.8	13.5	79.4	83.7
INDIA (13.4; 5.6)	37476	226219	12.2	4.6	8.1	6.6	79.7	88.9

Note: Figures in brackets in column 1 indicate the percentage of Muslims and other minorities in the State's population.

Source: Sachar Committee Report, 2006, Table 6.2, p. 127.

The credit deprivation for minorities, especially Muslims, is glaring if we keep in mind the fact that a larger percentage of Muslim population are either traders or artisans or farmers as is evident from the following tables.

Table 3.10: Percentage of Self-Employed Workers among Social Groups in Urban Areas, 2004-05

State	All	All Hindus	Hindus			Muslims			Other Minorities
			SCs-STs	OBCs	UC	All Muslims	OBC Muslims	General	
All-India	44.6	42.6	33.4	46.1	44.0	57.4	62.8	53.9	41.2
West Bengal	45.5	44.6	43.3	48.1	44.7	52.6	57.1	52.6	38.4
Kerala	38.8	34.7	27.5	36.1	35.9	50.6	50.7	38.3	40.7
Uttar Pradesh	58.8	52.7	47.4	60.6	45.7	71.1	73.9	67.6	73.1
Bihar	59.2	60.2	40.6	63.4	67.5	54.4	51.2	62.5	40.1
Assam	42.1	41.9	39.9	42.7	42.7	43.1	52.7	42.9	39.6
J&K	56.2	52.2	58.4	39.0	51.7	60.1	69.3	59.9	28.0
Karnataka	41.3	38.5	32.8	38.1	41.8	53.7	59.5	47.8	36.5
Maharashtra	37.4	36.5	29.3	37.0	39.3	47.9	47.8	47.9	28.4
Andhra Pradesh	44.1	43.1	24.2	46.7	46.7	54.5	72.1	50.8	22.5
Gujarat	41.3	38.8	14.7	39.5	46.4	53.7	52.4	54.1	66.4
Rajasthan	55.3	54.0	54.0	60.8	46.6	63.3	73.7	55.4	55.6
Madhya Pradesh	49.1	47.0	32.8	53.9	47.4	54.6	53.9	55.4	62.0
Tamil Nadu	39.2	38.1	24.4	41.2	35.1	55.9	56.2	53.3	39.4

Source: Appendix table 5.8 in Sachar Committee Report, p. 342

3.8 Discrimination in Welfare Measures

The Indian state is supposed to be a welfare and developmental state and huge amounts of public funds are spent on such measures and the populism of parties promising sops and goodies has become the main basis of electoral democracy in India. Looked at from the point of view of welfare delivery, the famous Rajiv Gandhi¹⁴ quote asserting only 15 paise reach the poor has now become a standard cliché and his son¹⁵ has updated the figure by bringing it down from 15 to 5 paise.

Nevertheless, the entire political edifice of parties and the electoral system survive on such political spoils only. Be that as it may, if you look at it from the point of view of its efficacy in

¹⁴ 7th Prime Minister of India

¹⁵ Rahul Gandhi, current All India Congress Committee (AICC) general secretary

bridging social inequalities, not only the record is dismal but the welfare system accentuates inequalities and is not free from discriminatory bias. Here too the citizen has no right to welfare and even relief during disasters.

Neither does the citizen have right for state support even in areas backed by fundamental rights like healthcare and education. Bridging social gaps is supposed to be the state policy but the state arbitrarily discriminated between welfare/developmental schemes – some have quotas for dalits and minorities and many do not have. Even where some targets -- though not quotas -- are fixed in some cases like Indira Awas Yojana (IAY), they are never met. Are minorities less qualified to get houses from the government?

Take housing, for instance. IAY is the one of the few welfare schemes that has a quota for minorities. This is the main housing scheme for the poor. But in the absence of universal housing rights or a Fair Housing Act to regulate/govern state aid to housing, the implementation record of the IAY in providing housing for minorities leaves much to be desired. For instance, during 2007–08, as against the physical target of 3.19 lakh (319,000) houses for minorities, only 1.57 lakh houses were constructed as per a government report. Strangely, coverage that year fell far below the targets in Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Union Territories of Andaman & Nicobar and Lakshadweep – regions with predominant minority populations.¹⁶

The bureaucrats have also fixed a uniform 15% quota for minorities irrespective of the share of minority population locally and the “quota” thus turns into a ceiling. Housing discrimination is not limited to this. Landless agricultural labourers as a category have been excluded from IAY, which means an overwhelming majority of dalits and tribals would be kept out. IAY is not an exception.

This is the general norm with most of the welfare and developmental schemes in most of the States with high minority population and nowhere does the share of the minorities approach their share in the population in the State except in the case of a couple of schemes in Uttar Pradesh where the high figures arising from political considerations of successive regimes only goes to underline the arbitrariness underlying the selection of beneficiaries to these schemes.

And where arbitrariness and discretion on the part of the officialdom is the rule, bias and discrimination on the part of a predominantly Hindu upper caste bureaucracy can always play a role. Like social audit, there has to be a discrimination audit by an autonomous body and answerability on the part of the bureaucracy.

¹⁶ A Report by the Rural Development Ministry on IAY, <http://rural.nic.in/PRCmeetingo809/IAY%201.pdf>.

3.9 Discrimination in Providing Infrastructure

Discrimination in providing infrastructural facilities to villages with high Muslim population:

If you happen to be from a minority community, good country roads can never take you home for such roads connecting high minority population villages do not exist in majority of the cases, irrespective of whether yours is a tiny hamlet or a big village. Just take a look at the Sachar Committee's findings.

Table 3.11: Percentage of Villages with 40% or More Muslim Population Having Pucca Approach Roads and the Number of Villages Not Having Such Roads – 2001 Census

State	Small Villages (<1000 Population)		Medium Villages (1000–2000 Population)		Large Villages (>2000 Population)	
	% of villages connected by pucca roads	Number of villages not connected by pucca roads	% of villages connected by pucca roads	Number of villages not connected by pucca roads	% of villages connected by pucca roads	Number of villages not connected by pucca roads
India	23.8	10547	29.2	7898	42.9	6717
West Bengal	18.3	1905	27.8	1605	41.5	1846
Kerala	--	0	100	0	100	0
Uttar Pradesh	5.7	2552	9.5	2500	24.9	2144
Bihar	5.3	1371	8.3	1148	17.3	1386
Assam	32.6	1278	38.9	1139	52.7	652
Jammu & Kashmir	48.8	882	64.8	354	79.0	171
Jharkhand	6.1	1115	9.5	515	17.3	259
Karnataka	72.9	51	80.9	21	96.9	4
Uttaranchal	22	64	33.3	52	42.6	66
Delhi	100	0	100	0	100	0
Maharashtra	75.9	53	82.9	31	94.0	9
Andhra Pradesh	72.9	16	86.8	5	94.0	3
Gujarat	93.0	18	98.1	3	99.6	1
Rajasthan	29.2	627	38.1	249	68.8	63
Madhya Pradesh	16.2	326	25.2	122	63.3	22
Haryana	44.8	106	55.5	81	74.8	36
Tamil Nadu	70.8	7	90.5	2	95.9	3
Orissa	11.7	91	32.8	45	54.8	19
Himachal Pradesh	38.5	40	75.0	1	50.0	1
Chhattisgarh	27.3	8	57.1	3	0.0	2
Punjab	80.3	2	100	0	100	0

Source: Data taken from Appendix Table 7.5 of the Sachar Committee Report, p. 360

3.10 Discrimination in Providing Basic Needs

65.9% of Muslims and 66.6% of SCs among Hindus lived in kutcha (poorly constructed or makeshift) houses in 2001 whereas the national average for those living in kutcha houses was 55.4%. But this kind of discrimination does not become so glaring as sectarian discrimination because it is subsumed under a larger context of official callousness affecting all sections of the population.

Guaranteed access to basic and essential minimum needs like drinking water, PDS supply, toilets, healthcare, education, electricity supply, all-weather road connectivity, and telecom and broadband connectivity are being increasingly recognised as basic human rights. Continuing callousness on the part of the administration in providing these basic minimum services is a criminal violation of human rights. Where state monopoly is involved there is absolutely no answerability and the judiciary has started its welcome intervention only in the case of right to food. But the buffalos of bureaucracy cannot always be made to move with a judicial whip. The entire legal and regulatory framework curbing neglect and arbitrariness on the part of the bureaucracy is absent. In the absence of such legal entitlements to the ordinary citizen, bias and sectarian prejudice on the part of the officials can assume full play resulting in discriminatory denial of basic needs to the minorities as the facts below clearly show.

3.11 Income, Assets and Unmet Basic Needs

Table 3.12: Income, Asset and Material Well-being of Households
According to Caste and Religion, 1990

	STs	SCs	All Hindus	Muslims	All
Household Income (Rs.)	19556	17465	25713	22807	25653
Per Capita Income (Rs.)	3504	3237	4514	3678	4485
Work participation (Male)	51.6	52.8	52.3	48.0	51.9
(Female)	27.7	23.0	19.3	9.6	18.4
Source of Income - Agriculture	55.6	37.7	56.1	44.1	55.0
Artisanship	2.7	5.7	4.3	8.3	4.5
Salaried	14.8	15.2	16.4	14.7	16.5
Land Holding in acres	4.3	2.8	4.6	3.6	4.5
% Kutcha Houses	74.0	66.6	55.2	65.9	55.4
% Electricity	29.7	30.7	43.2	30.0	42.9
% Protected Water	61.6	72.8	71.1	78.1	72.0
% Piped Water	17.2	22.6	25.3	19.4	24.8
% having Toilets	12.2	8.3	13.2	26.7	15.3
% Using PDS	37.5	32.1	34.1	21.8	33.2
Poverty Head Count	51.0	50.0	39.0	43.0	39.0

Source: UNDP's India Human Development report 1990, p. 534, cited by Abusaleh Shariff in *Muslim India*, No. 216, December, 2000.

Table 3.13: Number of Villages without Basic Facilities, All India 2001

Facilities	Small (Less than 1000 Population)			Medium (1000–2000 population)			Large (More than 2000 Population)		
	With Muslim Population Share of...								
	<9%	10–39%	40%+	<9%	10–39%	40%+	<9%	40%+	10–39%
Education	44542	4676	4240	3667	1186	1078	906	423	382
Medical	193640	13051	11193	56813	9435	7130	18181	6191	4680
Post	168088	11670	11013	43838	7959	7111	11194	4398	4448
Bus Stop	172048	12410	10547	53199	10336	7898	22519	8859	6717
Proper Approach Road	133063	8496	7910	34124	5749	4970	10627	3644	3502
No of Villages in the Respective Category	242549	16525	13840	103175	15648	11149	68537	18895	11763
% of Population (All)	87.7	6.8	5.5	23.2	2.6	74.2	26.7	3.3	70.0
% of Muslim Population	8.8	23.3	67.9	13.8	7.4	78.9	14.9	8.2	76.8

Source: Sachar Committee Report, Table 7.1, p. 145.

3.12 Discrimination in the Private Sector

Discrimination by the state is the main level of discrimination. But there is discrimination at several other levels in society -- by private employers, managements of institutions like educational ones, and even sectarian discrimination of one section of the civil society by other sections in many spheres of social life. These manifest in numerous forms in civic and public lives – such as in the field of sports, in the marketplace, in the arena of trading and other commercial activities, in the media, in the art world.

The same corporate world which clamours for state bailouts and stimulus packages amidst the meltdown squeal in a shrill voice about government interference in the economy and forcing “imperfections” in the labour market when the proposal for reservation for dalits in the private sector comes up. It would kill competitiveness, quality, standards and so on, is the argument. The party that mooted this was also clever enough to do this as a mere posturing to grab dalit votes and in the face of corporate opposition it engaged in pontification about voluntary employment diversity and promised that there would be no legal enforcement. But are there no midways between legal enforcement and the so-called “voluntarism” mirage?

Given the advanced level of technology in the secondary and tertiary sectors and relatively more standardised and homogenous labour processes in many industries, the scope for any employee to perform better or worse than others is very small in most enterprises. Workers from minorities or oppressed castes cannot perform worse on, say, CNC¹⁷ lathes or an assembly unit for electronic components. The average skill levels of some minorities and lower castes might be lower but once employees have been recruited on the basis of some minimum necessary skills, there are no studies that document that employees of minority or lower caste background have lower productivity or perform relatively worse.

Still, they perform worse on the labour markets for even these segments of the industry or similar service sectors. This clearly shows that there is some discrimination in recruitment as most of the recruiting authorities belong to the Hindu community and upper castes. Employers are not without their prejudices and hence are choosy in a labour-surplus economy. Moreover, influential kinship networks also play a crucial role in gaining employment. Negative stereotypes prevail about employees of certain backgrounds – for instance that Muslim workers would be unruly or defiant, dalits are inefficient and Christians from Kerala would unionise and so on. Minority workers and low-caste workers are hired only in low-skilled and low-paid jobs.

This kind of discrimination extends to even certain regional backgrounds – workers from Bihar are found only in foundries performing extremely hard physical labour in scorching heat in Coimbatore and workers from Orissa are found mostly in unskilled construction labour and related plumbing work in Chennai and Bangalore for instance. Almost all the scavengers in southern metros hail from a particular dalit caste in Andhra Pradesh. This forced “division of labour” is also a form of discrimination and this is the only “reservation” in the private sector at present where the so-called “dirty jobs” are reserved for lower castes or minorities.

The first thing that the government can do is to make mandatory the disclosure of religious and social composition of employment by the private sector. Only those firms that fulfil a certain criterion should be given certain tax incentives. Cases of blatant employment discrimination can be meted out some penalties as well. Thus, tokenism and posturing in place of meaningful and substantial measures on the part of rulers themselves turn out to be aiding discriminatory practices.

Two leading chambers -- the Confederation of Indian Industry (CII) and the Associated Chambers of Commerce and Industry of India (ASSOCHAM) -- tried to counter the move for a legislation for reservation in the private sector with vague proposals for voluntary affirmative action but is it beyond their “voluntarism” to set up an institute akin to the Indian Standards Institute (which gives the ISI label for meeting quality criteria) to come up with a fair employment standards criteria for firms and list the firms which meet this index and those which do not?

Are the private firms ready to get branded on the basis of their “voluntary” employment fairness and on that basis face the consequences in the market? To begin with, can the leading

¹⁷ computed numerically controlled

media channels in the country periodically give out the details of the community and caste composition of all their employees at each separate level? Why can't this "voluntarism" extend to respecting the right to information of the audience about private sector affairs as well?

Does promotion of education and development among tribals and other minority groups figure among the bogus "corporate social responsibility (CSR)", at least by those firms which excel in forcible land-grabs in tribal areas? Is there a single example of a corporate firm floating a minority educational institution or adopting an existing one for exclusive promotion of education among backward religious minorities or for that matter among tribals or dalits?

Why can't the state have some discrimination in extending subsidies, tax waivers and other incentives in favour of such CSR? When state subsidies and tax waivers to the corporate sector run into nearly Rs. 600,000 crores¹⁸ (approx. USD 135,226 million) (Rs. 4 lakh crores tax waivers and Rs. 1.86 lakh crore stimulus packages, according to the 2009-10 budget) per annum, can't this minimum be expected in return? The one-sided corporate logic is bizarre: Externally enforced fair employment practices are bad but externally induced business promotion is a must!

Mere absence of preferential treatment in employment in corporate houses alone might not mean an end to discrimination. The corporate sector too remains under the illusion that discrimination in employment is a thing of the past and they look only for right qualification and merit. The elitist corporate logic is perverse: historical discrimination can be grudgingly accepted as a justification for affirmative action only in the public sector but affirmative action should not come in the way of current discrimination in the private sector!

The low skill level among certain minorities and oppressed castes is a social and historical outcome. They have no access to training in better skills, either because of poverty or lack of access to training institutions. In Uttar Pradesh, a state with a high Muslim population, there are some districts without a single engineering college whereas in Tamil Nadu you can find on average 20 "engineering colleges" in each district, even in very backward ones.

Even small school buildings have been converted into "engineering colleges" there by the wave of commercialisation. Discrimination in employment is thus an extension of discrimination in education and discrimination in the spread of educational infrastructure. There is a continuum between segregation in society and disproportionate representation in the shop floors and office floors.

Often, inter-generational transfer of skills is the only mode of skills transfer in some closed occupational castes and religious communities engaged predominantly in artisan work. This shows that social segregation comes in the way of diversification of occupations and skills through greater social integration. If economic transition has not even entered the stage of modern industry but remains confined to the level of guilds and manufactures in the predominantly Muslim areas of UP and Bihar, discrimination in work will remain the norm despite reservation and the quotas will go unfulfilled even if introduced in high-tech private sectors.

¹⁸ One crore is ten million

3.13 Present Framework of Positive Discrimination Inadequate

We have earlier argued that there is nothing inevitable about inequalities. Decisive action by the State can considerably narrow down much of these inequalities. Positive discrimination is at best only a minor part of such state action.

However, even the prevailing framework of reservations leaves much to be desired. Going by the results, it seems this is more of a political measure intended to placate dalits and OBCs, to defuse social unrest or to attract their votes. In fact, if egalitarian jurisprudence is to prevail, then the laws and the court diktats should base themselves not just on the narrow texts of the constitution, or the apparently fair criterion of reservation according to the proportion of the population, or the technicalities of the absence of precise enumeration of caste population or even on some arbitrary ceiling of 50% but on a thorough outcome analysis of the ongoing positive discriminatory measures and readjusting them by enlarging their scope or expanding their coverage, not just to overcome the gaps of the past but to prevent renewed fissures of the future.

Judicial discrimination is also often couched in the language of egalitarianism overriding the widely accepted concept of affirmative action. For instance, consider the whole controversy about the creamy layer. True, positive discriminatory benefits to the downtrodden should not be monopolized by a wafer-thin narrow elite among the historically oppressed. But this should under no circumstances become a device for “strangling the fittest’ among the oppressed and curbing their competitiveness. Under no circumstance can the creamy layer among the OBCs for instance, within the ambit of reservation, outnumber the creamy layer of the society as a whole comprising predominantly the upper castes, who ostensibly constitute themselves as the cream outside the ambit of reservation but in effect enjoy 50% de facto reservation for themselves. This is just an example of judicial discrimination.

The Sangh Parivar, through Ekal Vidyalayas¹⁹, form a network among tribals and by installing some deities try to “mainstream” them into Hindu society only to mobilise them for attacks on their Christian brethren to force them for reconversion. The government tribal welfare measures hardly make any substantial difference to their status. They neither put an end to discrimination nor promote greater integration.

All these underline the need to go beyond reservations and tokenist upliftment measures and evolve a meaningful development strategy which alone can integrate them with the rest of the society socially and culturally. Unless substantial development policies are designed in such a way which can help the emergence of a sizable educated middle class among tribals, bringing them as a social stratum into the socio-cultural mainstream of society would be inconceivable. In the absence of a development strategy going far beyond the present token “positive” discrimination and the symbolism of incorporation of a handful of tribal leaders into

¹⁹ A non-profit organisation that operates single-teacher schools in underdeveloped parts of India, with over 2,100 schools as of April 2008.

the power structure, the vast mass of tribals would continue to be at the receiving end of all-round discrimination in development.

But a word of caution on the question of assimilation would be in order. Thanks to the efforts of the Church, some northeastern tribal States and communities have culturally come on par with the rest of India and thanks to the spread of English convent education their educational advance is also quite high. Yet, in the capital of India, taking a prejudiced look at the way they dress and at their different culture in general, the so-called “advanced” mainstream society considers the tribal girls from Northeast as “loose girls” and while travelling from Northeast to Delhi and right there in the capital itself they are invariably subjected to eve teasing or molestation, even by Army men in uniform.

Now, the question inevitably arises: Who are culturally backward – the “mainstream” bullies from the heartland or the tribals from the remote Northeast? Is it really worthwhile for the tribals to get fully assimilated in this “advanced” culture? The very slogan of total assimilation might often turn out to be a form of discrimination to deny them their cultural uniqueness and even safety and security.

3.14 Discrimination in the Sphere of Education

Below are the findings from a study conducted over 25 years ago for a doctorate-level research work. The survey was conducted in 111 schools of four districts of western Uttar Pradesh (Etah, Etawah, Muzaffarnagar and Moradabad) that had a high Muslim population [Dr. B.S. Gupta, a senior faculty member of the National Council of Education Research and Training (NCERT), conducted this study titled, “Equality of Educational Opportunities and Muslims” in 1980. This study was quoted in *Mainstream*, Vol XLVII No 19, April 25, 2009.] The findings of the study are:

1. The distribution of Hindu-Muslim population was 79:21; enrolment in schools was in the ratio 93:7. The drop-out rates were higher for Muslim children.
2. The pass percentage of Hindus was much higher than that of the Muslim children.
3. The textbooks in Hindi, compulsory Sanskrit and Social Studies had contents with religious overtones not to the liking of the Muslim children. A sense of their religion being ignored was evident.
4. Both parents and children from the Muslim community wanted Urdu as the medium of instruction.
5. Only 10 out of 111 schools had facilities for teaching Urdu.
6. No Hindu student offered Urdu as a subject.
7. The prayers, the dramas, use of pictures and paintings, the writings on the walls in Hindi, the invitees and visitors to the schools indicated a cultural bias.

8. The contents of the textbooks, the school culture, lack of facilities for learning Urdu and the absence of mother tongue as the medium of instruction created disinterest in students leading to lower enrolment rates and higher dropouts.

There are obviously many factors behind uneven spread of education among different religious and other social groups in India. Uneven spread of educational infrastructure is a key reason. The general social and cultural backwardness of some States like Bihar also reflects in very low literacy rates in these States. Interestingly, the literacy gap between upper caste Hindus and dalits is more compared to the gap between Hindus and Muslims in some of these States. On the other hand, the gap in literacy between Hindus and Muslims is negligible in a socially well integrated State like Kerala. Even among the minorities, as well as the Hindus, there is a huge gap in literacy levels among men and women. The Centre, as well as many States, implements several programmes like Sarva Siksha Abhiyan²⁰ and Back-to-School programmes and some programmes exclusively for minority students like the scholarship programmes. Nevertheless, funding and institutional muscle of the special programmes targeted at specific groups are not governed by the gaps in educational spread. The government policy cannot limit itself to achieving the target of universal literacy.

Table 3.14: Percentage of Villages with 40% or More Muslim Population Having Educational Institutions within the Village and Number of Villages Not having Such Facilities – 2001 Census

State	Small Villages (<1000 Population)		Medium Villages (1000–2000 Population)		Large Villages (>2000 Population)	
	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions
India	69.4	4240	90.3	1078	96.8	382
West Bengal	64.5	827	89.4	236	97.8	70
Kerala	N.A.	0	100.0	0	99.6	1
Uttar Pradesh	49.6	1365	84.8	420	94.5	158
Bihar	49.6	729	79.8	253	94.0	100
Assam	87.7	233	97.9	39	99.4	8
Jammu & Kashmir	90.1	171	99.0	10	98.7	11
Jharkhand	49.1	604	85.6	82	93.6	20

²⁰ The 'Sarva Shiksha Abhiyan' (or 'The Education for All' Movement, is a flagship programme of the Government of India for the achievement of the universalization of elementary education in a time bound manner, as mandated by the 86th amendment to the Constitution of India making free and compulsory education to children of ages 6-14 (estimated to be 205 million in number in 2001) a fundamental right.

State	Small Villages (<1000 Population)		Medium Villages (1000–2000 Population)		Large Villages (>2000 Population)	
	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions	% of Villages Having Educational Institutions	Number of Villages Not Having Educational Institutions
Karnataka	83.5	31	94.5	6	98.4	2
Uttaranchal	58.5	34	93.6	5	95.7	5
Delhi	0.0	2	0.0	1	100.0	0
Maharashtra	97.3	6	99.4	1	98.7	2
Andhra Pradesh	98.3	1	97.4	1	98.0	1
Gujarat	97.7	6	100.0	0	100.0	0
Rajasthan	89.7	91	99.0	4	100.0	0
Madhya Pradesh	89.7	40	99.4	1	100.0	0
Haryana	78.6	41	96.7	6	99.3	1
Tamil Nadu	75.0	6	85.7	3	97.3	2
Orissa	68.9	32	92.5	5	97.6	1
Himachal Pradesh	81.5	12	100.0	0	100.0	0
Chhattisgarh	100.0	0	100.0	0	100.0	0
Punjab	90.0	1	100.0	0	100.0	0

Source: Data taken from Appendix Table 7.2 of the Sachar Committee Report, p. 357

Table 3.15: State-wise Literacy Levels – 2001

State	All	Hindus	SCs-STs	Muslims	All Others
India (13.4)	64.8	65.1	52.2	59.1	70.8
West Bengal (25.2)	68.6	72.4	56.1	57.5	81.6
Kerala (24.7)	90.9	90.2	80.8	89.4	93.1
Uttar Pradesh (18.5)	56.3	58.0	46.2	47.8	62.2
Bihar (16.5)	47.0	47.9	28.5	42.0	52.6
Assam (30.9)	63.3	70.0	64.0	48.4	71.3
Jammu & Kashmir (67.0)	55.5	71.2	46.5	47.3	100.6
Jharkhand (13.8)	53.6	54.6	39.7	55.6	63.7
Karnataka (12.2)	66.6	65.6	51.5	70.1	71.1
Uttaranchal (11.9)	71.6	74.1	63.4	51.1	77.4
Delhi (11.7)	81.7	82.8	70.8	66.6	86.5

State	All	Hindus	SCs-STs	Muslims	All Others
Maharashtra (10.6)	76.9	76.2	64.3	78.1	80.0
Andhra Pradesh (9.2)	60.5	59.4	48.9	68.0	63.3
Gujarat (9.1)	69.1	68.3	55.3	73.5	72.8
Rajasthan (8.5)	60.4	60.2	49.1	56.6	66.1
Madhya Pradesh (6.4)	63.7	62.8	48.7	70.3	71.7
Haryana (5.8)	67.9	69.4	55.4	40.0	72.9
Tamil Nadu (5.6)	73.5	72.0	62.1	82.9	75.8
Orissa (2.1)	63.1	63.3	45.2	71.3	74.0
Himachal Pradesh (2.0)	76.5	76.8	69.6	57.5	79.8
Chhattisgarh (2.0)	64.7	63.9	55.3	82.5	71.3
Punjab (1.6)	69.7	74.6	56.2	51.2	75.4

Source: Appendix Table 4.1, Sachar Committee Report, p. 286;

Note: Estimated from Census of India (2001) Tables C9, C8-SCs and C8-STs.

Figures within parentheses are % share of the Muslim population.

Table 3.16: Proportion of Enrolled Children Aged 6–14 Years, 2004–05

State	Total	Hindus			Muslims	All Others
		SCs-STs	OBCs	General		
India	85.3	79.7	86.0	94.9	81.8	89.9
West Bengal	85.7	83.6	91.4	91.9	82.8	70.8
Kerala	98.4	95.7	99.3	99.6	99.0	96.9
Uttar Pradesh	82.2	80.2	85.9	93.5	69.4	82.2
Bihar	70.9	56.3	74.7	91.8	65.8	78.5
Assam	90.9	93.1	92.9	94.5	87.0	86.0
Jammu & Kashmir	91.8	90.0	95.9	96.3	90.6	98.0
Jharkhand	79.4	73.8	86.5	89.2	69.2	78.6
Karnataka	88.3	82.2	90.3	93.5	90.7	94.3
Uttaranchal	90.4	90.3	86.1	97.4	61.4	97.8
Delhi	94.1	85.1	95.5	98.4	95.1	97.4
Maharashtra	90.2	80.1	91.0	94.8	91.0	94.0
Andhra Pradesh	86.5	84.1	86.6	91.8	83.4	92.3
Gujarat	84.8	85.4	81.7	94.9	78.9	73.5
Rajasthan	81.1	75.1	83.0	92.1	77.1	83.8
Madhya Pradesh	88.5	78.6	87.6	99.0	88.0	98.8
Haryana	88.8	79.4	92.1	95.5	59.7	90.6
Tamil Nadu	96.3	95.8	96.2	96.3	98.5	98.4
Orissa	82.6	73.8	87.3	93.7	90.6	82.4
Himachal Pradesh	97.3	97.3	97.9	98.7	73.7	87.1
Chhattisgarh	84.7	83.6	84.2	91.5	97.9	93.0
Punjab	90.2	89.0	90.6	94.2	89.0	89.6

Source: Appendix Table 4.3, Sachar Committee Report, p. 291.

Note: Estimated from NSSO 61st Round Schedule 10, 2004–2005.

Table 3.17: Percentage who had Completed At Least Primary School – All-India

Year	Total			Male (Urban)			Female (Urban)			Male (Rural)			Female (Rural)		
	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others
2001	60.9	61.4	79.3	71.3	80.2	89.6	70.9	74.8	88.1	58.9	66.1	80.8	47.8	47.0	67.6
1999	58.4	55.9	75.5	70.1	78.1	87.9	68.1	68.6	84.5	57.4	62.8	78.3	43.3	39.0	60.7
1996	54.7	49.0	71.4	70.8	77.1	87.7	62.7	60.7	80.6	55.9	58.6	76.3	36.1	30.1	52.2
1991	47.3	40.2	64.7	68.2	71.9	85.5	54.0	49.6	74.6	49.5	50.5	70.3	28.3	21.7	43.2
1986	41.0	32.2	59.0	64.2	66.3	83.6	46.6	40.2	70.4	43.3	41.7	64.1	21.9	14.6	35.3
1971	33.6	23.1	50.4	58.8	57.6	80.3	35.0	27.4	61.5	36.1	29.6	54.3	13.5	7.7	23.9
1948	18.2	8.8	27.8	43.4	33.4	66.7	13.9	7.5	34.1	21.8	13.1	31.6	4.0	1.6	7.4

Source: Appendix Table 4.6. Sachar Committee Report, p. 295

Table 3.18: Percentage who had Completed upto Matriculation Level – All-India

Year	Total			Male (Urban)			Female (Urban)			Male (Rural)			Female (Rural)		
	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others	Muslims	SCs-STs	All Others
2001	23.9	21.1	42.5	36.1	42.1	63.0	32.2	31.8	57.9	22.0	24.5	41.8	11.2	10.2	23.8
1996	19.5	16.7	37.2	34.9	38.7	61.1	24.3	23.5	49.9	19.3	20.9	37.8	7.3	6.7	17.5
1991	16.1	12.9	32.5	31.9	35.0	59.0	18.8	17.3	44.4	16.5	16.5	32.8	4.8	3.9	12.4
1976	12.5	7.9	25.5	28.7	28.6	55.5	12.3	9.8	34.6	12.2	9.3	23.7	2.1	1.5	6.1
1953	5.4	2.1	11.0	18.3	12.8	41.0	3.2	1.8	12.4	5.0	2.6	9.3	0.4	0.2	1.0

Source: Appendix Table 4.6. Sachar Committee Report, p. 295

3.14.1 Witch-hunt against minority educational institutions

Can the government exclude minority educational institutions from both its aid programmes, on the one hand, and from the general state regulatory measures with regard to educational curriculum and fees charged from the students, on the other? This has remained a controversial issue and the Hindu right has repeatedly used this issue for a witch-hunt against the minority educational institutions.

The Constitution of India, under Article 29 (Protection of the Interests of Minorities) and Article 30 (Rights of Minorities to Establish and Administer Educational Institutions),

provides for the establishment of minority educational institutions and offers some special protection to them. Over a period, the minority educational institutions came under attacks on the question of reservation, admissions, fee structure, academic autonomy and even trade union rights of their employees. The Hindu Right from the one extreme to pro-reservation lobbies and the trade union movement at the other challenged the status of these minority institutions. The litigations also piled up in the courts. Even the Venkatchaliah Commission²¹ established by the insert National Democratic Alliance (NDA) Government to review the functioning of the Constitution recommended that these two Articles of the Constitution be reviewed.

Since the constitutional validity of related policies and even the validity of some existing interpretations of the constitutional provisions themselves were involved, the Supreme Court established a 11-member Constitutional Bench to go into these issues. The verdict of this Bench on 31 October 2002 basically upheld the validity of the two Articles and the rights of the minorities to run their own educational institutions with relative autonomy. Interestingly, the preceding general trend in the judiciary was to move with the neo-liberal times and legalise capitation fee system in commercial private educational institutions and uphold other neo-liberal reforms in the sphere of higher education and the same spirit was also extended to the minority educational institutions – the “payment” seats to cross-subsidise the “merit” seats and the “general” quota to balance the “reserved” quota. In other words, the apex court once again preoccupied itself with the issues it tried to address in the Unnikrishnan case judgement²² of 1993 in the case of minority institutions also but left the specific minority rights issue somewhat vague.

The Aligarh Muslim University (AMU) decided to reserve 50% of its seats to Muslims which was endorsed by the Union Human Resources Ministry, but this move was attacked by the Hindu Right. The Hindu Right also challenged the status of AMU as a minority institution on some technical grounds. Even the Allahabad High Court quashed the Central law giving AMU the status of a minority institution. In fact, the AMU used to reserve 60–65% of admission for non-Muslim students and only recently the demand came up for reserving 50% for Muslim students. Though never an exclusive Muslim university as the name suggests, this secular institution has remained a symbol of pride for Muslims and of late there is a rush to get admission into this institution from all over the country. By default or design, the so-called elite institutions like the Indian Institute of Technology (IIT), Indian Institute of Management (IIM), and All India Institute of Medical Sciences (AIIMS) etc. are the exclusive preserve of the elite from the majority community. Are not minorities entitled to “their own” elite institutions, which in their perception symbolize their glorious heritage?

²¹ The BJP-led NDA Government at the Centre appointed a National Commission to Review the Working of the Constitution in February 2000 headed by former Chief Justice of the Supreme Court, Justice Venkatchaliah, which submitted its report in March 2002.

²² In this case, the Supreme Court had allowed private educational institutions to reserve a certain number of seats as payment seats and allowed the managements to fill them at their own discretion. Rest of the seats would be filled by the government. The court has also fixed the fee structure for payment as well as general seats. The minority educational institutions challenged this verdict that this judgement and the state regulation would not apply to them as they were backed by distinct provisions of the Constitution.

The United Progressive Alliance (UPA) Government passed the Minority Educational Institutions (Amendment) Bill 2005 on 1 March 2006. This is perhaps the lone case of the Centre assuming overriding power over the States (some of which are ruled by the BJP) to grant permission from the Centre for setting up a minority educational institution within 60 days of making an application even if the State government is not willing to grant such permission. The BJP's attempts to invoke federalist principle against minority rights were defeated. The Act also gave judicial powers to the National Commission for Minority Educational Institutions in this regard and also with regard to settling various other disputes related to such institutions. The passing of this Bill shows that minority interests can be directly protected by the Centre where discriminatory State governments violate them with impunity.

Besides this, there was yet another controversy that focussed around the decision of the Centre to exempt the minority institutions from the purview of reservation for SCs-STs and OBCs. It was only in the context of attacking this that the Hindu Right became champions of these deprived castes. On the other hand, minorities are not monolithic groups and this Bill did not provide for reservation not only for the SCs-STs and the OBCs in general but it ignored the need for special promotional measures for tribal and OBC Muslims.

There can always be a discussion on the extent of autonomy a minority institution can enjoy – especially with regard to the curriculum and labour relations and even fee structure. But the very purpose originally visualized in the Constitution was to enable minority community organisations to establish their own educational institutions to promote educational development among their communities and also maintain their distinct cultural identity insofar as the distinct cultural particularity did not meddle with the curriculum. Preventing exploitation through exorbitant fee collection by unscrupulous “minority” entities misusing this Constitutional provision however calls for some checks and balances within the community itself as well as in the law and by the state regulatory institutions.

The National Education Policy (NEP) of 1986 devoted an entire chapter to overcome the educational gap between the minorities and rest of the Indian population. As of 2009 however, this aspect of the policy was yet to be implemented by any government. The idea that Muslims are not coming forward to take up education is a canard. In Kerala, the highest percentage of students entering high school education is from the Muslim-majority Mallappuram district but the pass percentage there was reportedly 18% and educated unemployment one of the highest. This shows that the real problem lies elsewhere. Of course, after sustained efforts the pass percentage has now reportedly risen above 50%. Overcoming educational gap of minorities and lower caste groups thus calls for broad spectrum measures and not just reservation, some additional scholarships or ensuring minority status to some educational institutions. Educational discrimination of minorities would continue in the absence of such a broader package.

3.14.2 Discriminatory Ideas in Textbooks

The seeds of discriminatory ideas are often propagated through school textbooks. This is done through distorted presentation of history, minority profiling and stereotyping of minority images and so on. In fact, this is facilitated by a distorted principle of history dominating textbooks, viz., history centred on rulers and the power elite and one revolving around wars and aggressions. Islam is always shown as the aggressive religion because that happened to be the religion of Mughal rulers in India.

Strangely enough, there is ‘discrimination’ in this regard – similar hatred is not built up to the same extent against Christianity, which was the religion of the British, because recent history cannot be distorted as much as medieval history. The destruction of temples by the army of Aurangzeb is portrayed as the greatest act of aggression against Hinduism without mentioning that temples were usually also repositories of huge amounts of wealth and the target of raids by any invader, irrespective of their religious background.

There were numerous instances of even the invading armies of Hindu monarchies looting temples and in such perpetual power conflicts between different feudal rulers religion was never the primary consideration. The Parmar rulers of Gujarat destroyed numerous Jain temples and innumerable Buddhist shrines were destroyed by medieval Hindu rulers.

Worse still, a direct link and continuity is established between present-day communal group violence and political aggression and such acts of “religious aggression” in medieval India. School textbooks never give prominence to composite culture and folk history. Even in higher education, people’s history is relegated to some small academic enclaves dealing with subaltern history

**Some Samples of Communal Venom in Textbooks Used in Schools Run by
Rashtriya Swayamsevak Sangh (RSS) Outfits**

“Islam was spread in Bharat through sword. Muslims landed in Bharat with sword in their one hand and Quran in the other. Innumerable Hindus converted to Islam under duress. Then the war for freedom became the religious war. Countless sacrifices were offered in the name of religion. At last we (the Hindus) won war after war. We did not allow foreigners (Muslims) to rule the country. However, we failed in reverting the Hindu-turned-Muslims back to their religion.”—(*Itihaas Garahahey*)

The Arabs landed here to convert the people to their religion. Wherever they went, they were holding swords in their hands. Their armies stormed every nook and corner of the world. They destroyed each country that came in their way.

Worship places and universities were destroyed. Libraries were burnt to ashes.

Religious books were damaged. Mothers and sisters of the locals were molested.

They were unaware of the names of mercy and justice.”—(Pages 52-53, *Gorau Gatha* (G.G.))

“The second stage for freedom started with the arrival of Mahmood of Ghazni.” (*Gorao Gatha* Class-IV)

“Mahmood Ghaznavi murdered hundreds of thousands of people and converted Vishua Nath Temple and the birthplace of Bhagwan Krishna into mosques. As a result of it, Hindu ruler Prithvi Raj Chowhan killed him.”—(Pages 67-68, G.G.)

“Qutb Minaret had been constructed by Samundar Gupta and its original name was Vishnu Samtamba.

Foreign ruler Muhammad bin Tughlaq shifted his capital from Delhi to southern India for fear of Hindu rulers.”—(G.G. Page 73)

“The purpose of Mahmood Ghaznavi and Muhammad Ghauri was, besides attacks, the promotion of Islam.”—(HSIB²³, pages 190, 195)

“(Muslim ruler) Alauddin imposed 50% farm tax on Hindus.”—(HSIB 1, Page 260)

Most of the Sultans did not adopt religious tolerance. They committed atrocities on Hindus and demolished their idols and temples. Because of it the Hindus surrendered before the Sultans. However, they always continued their struggle to eliminate the rule of these Sultans.”—(HSIB, page 278)

“The followers of Islam, whether they came here in the guise of merchants or attackers, could never overcome the local civilization. There has been a clash between the two civilizations.”—(HSIB, Page 280)

“The Hindus were in majority in the country, but rulers had always been supporting the Muslims. For them Hindus were only tax-payers who did not lose their heart despite their defeat in the political field. More often than not they had been raising their voice to attain their lost freedom. This age is called the “age of resistance.”—(HSIB 2, pages 281-283)

“The Muslim state in India was religious by its nature.”—(HSIB 2, Page 282)

“Childhood marriages, Sati, purdah, indulgence in talisman and conservatism was for fear of Muslims.”—(HSIB 2, Page 284)

The Babri Mosque had been constructed exactly on the place where Ram had been born.”—(HSIB 2, page 146)

[Source: From a write-up in a discussion thread titled, “Excerpts from History Books Taught in RSS Schools, available at <http://www.mumbai-central.com/nukkad/jul2002/msg00312.html>]

²³ High School Itihaas Bhaag

3.14.3 RSS-run schools

There is no regulation of curriculum or textbooks used in schools run by the Hindu right wing RSS, either by the NCERT or any other state board of education. The Hindu Right, which rails against Muslim madrasas as breeding-grounds of terrorism because of religious teachings there, never agrees to subject the curriculum in RSS-run schools to any form of state regulation though these schools enjoy state assistance. True, purely religious teachings in madrasas is a controversial issue and they should be subjected to some form of scrutiny and regulation by the state and the non-religious component of education in these madrasas needs to be modernised. But neither the state adopts a principled approach in regulating public education nor does the Hindu Right accept uniform application of the principle of curbing ideas in textbooks promoting religious discord and discrimination in schools run by all religious entities.

More than this, the Hindu Right set out to distort the NCERT books themselves. Atishi Marlena has documented the NCERT controversy and the attempts of the NDA Government to modify NCERT textbooks after 2002 and releasing new books after alleging that the earlier secular “leftwing” historians, in charge of textbook preparation, had shown Hindu history in bad light. Let us quote from this author’s article in April 2004 issue of *Revolutionary Democracy*²⁴:

The NDA Government even came up with a National Curriculum Framework and revised the NCERT textbooks to introduce greater Saffronisation in these books. Atishi Marlena had given a concise analysis of these communal revisions in a write-up in a little-known journal called *Revolutionary Democracy* in its April 2004 issue. Below, in the box, we carry excerpts from this article.

Communal Revision of NCERT Textbooks under Pressure from Saffron Crusaders

While the earlier textbooks made numerous attempts to reflect the ‘composite culture’ of medieval times, these words are not to be found even once in the new books. The older books were accused of ‘white-washing’ the misdeeds of Muslim rulers,¹ but the new books do far more than just ‘correct’ this. The emphasis laid on the destruction by the Islamic rulers is quite tremendous. Far from trying to present the Islamic minority in a positive light, they dwell excessively upon the devastation caused by Muslim rulers. The section devoted to Mahmud Ghazni is two pages long of which about two-thirds is devoted to discussing the ‘vandalism’ he committed. What is also worth noting is the graphic language used to describe the destruction, especially that of temples:

‘Kanauj, long revered as the sacred capital of North India, was the next to suffer Mahmud’s onslaught... the defenceless residents fled to the temple for refuge.

²⁴ ‘On the New NCERT Books on Medieval India’, *Revolutionary Democracy*, April 2004

The city was taken in just one day, its temples destroyed and denuded of their treasures and great numbers of the fleeing inhabitants slain.²

This is followed by a half-page description of his attack on the temple of Somnath. It is said that the fall of Somnath 'was publicised by the contemporary and later authors as the greatest victory of Islam over idolatry. It instantly elevated Mahmud to the rank of a hero.'³ The implicit assumption is that the temple was destroyed for religious reasons rather than economic gain. An attempt to contextualise the nature of Mahmud's raids shows that he was motivated by a desire for the loot and a consequent consolidation of power in central Asia. While using the rhetoric of jihad, his career reflected a politico-economic motor and therefore his career tells us nothing about the nature of Islam. The new textbooks, however, seem to imply the reverse. The student reading the textbook is likely to draw immediate linkages between Islam and brutal destruction. Is that the intention of the textbook?

In popular accounts of history (which are often very communal), there are certain rulers whose brutalities, barbarism and persecution of the Hindus are constantly emphasised; these usually include Mahmud Ghazni, Allauddin Khilji and Aurangzeb. The new textbook actually goes much further and does not refrain from labelling several rulers as religious zealots. Jalaluddin Khilji is also presented as a religious bigot, a man who 'regretted his inability to enforce the full gamut of Islamic laws and regulations in the country.'⁴ This is backed up by an account of the desecration and demolitions by him or under his supervision by Alauddin Khilji. The author writes that Jalaluddin gave permission in 1292 for Alauddin to lead a raiding party to Allahabad, via Chanderi and Bhilsa. The author then goes on to quote a 'modern historian' that the 'idols were inevitably trampled under the zealot's feet.'⁵

How do we explain these detailed and graphic descriptions of the 'temple destruction' presented to 16-year-olds? They clearly go beyond being a corrective of the supposed 'white-washing' by the erstwhile textbooks. A look at the account of Mahmud Ghazni presented in the earlier book, makes clear that the new texts are carefully delineating an image of Muslims as brutal, destructive and intolerant. The old books presented a balanced account of the destruction, in its politico-economic context:

'The subsequent raids of Mahmud into India were aimed at plundering rich temples and cities of northern India in order to continue his struggle against his enemies in Central Asia... [his] most daring raids, however against Kanauj in 1018, and against Somnath in Gujarat in 1025... he sacked and plundered both Mathura and Kanauj. He was able to do this with impunity due to the fact that no strong state existed in north India at the time. No attempt was made by Mahmud to annex any of these states.'⁶

A simultaneous examination of both the accounts of Mahmud's incursions into the Indian subcontinent shows how the same information can be crafted in two completely different manners and hence convey remarkably different impressions to their readers. While the old textbook attempts to place Mahmud's plundering raids within a larger picture, the new book lays before the students a picture of religious conflict and strife, initiated and perpetuated by the Islamic community.

What we witness is a constant juxtaposition of the 'Hindu' and the 'Muslim' identities. There is a constant attempt to underline the indigenous nature of the Hindu community, and the alien and foreign nature of the Muslims. There is an assertion that the terms 'Hindus' and 'Muslims' are not inappropriate for understanding identity formation in this period (as was the position of the older textbook). The religious identities are the ones seen as predominant in determining the history of the period, and not as 'insufficiently crystallised'.⁷ The Hindu community, as representing 'Indian' interests is present from the first discussion of the entry of Muslim rulers in the 12th century. The conclusion left for the student to reach is of the Islamic rulers as foreigners and the Rajputs as glorious and patriotic defenders of 'India'. Muhammad Ghur is shown as having been confronted by '... Rajput powers determined to stall his advance into India.'⁸ That the concept of India in the 12th century is remarkably anachronistic is clearly something that the author does not indicate to her readers. The Hindu and the 'homeland' are inextricably linked from the beginning of the narrative of medieval Indian history. In fact the textbook echoes the work of Golwalkar, since it presents Muslims as foreigners whom the patriotic Hindus tried to resist from entering their 'nation'.

One of the most apparent means by which the old textbooks sought to remove bigotry and communal prejudice was to present a picture of an enriched, assimilative culture – one that incorporated elements of Islamic and pre-existing beliefs and practises. The watchwords of the older textbooks were 'composite culture' and 'cultural synthesis'. In an endeavour to counter the assimilative attempts by the earlier textbooks the new 11th standard textbook emphasises the intrusive nature of Islam in all societies in which it was propagated. Islam is seen as wiping out all traces of pre-Islamic civilization in all the regions where it spread. The author writes, 'pyramids, wonders of the ancient world...ceased to evoke pride in Egyptian converts, who even forgot their Pharaohs.'⁹ Imposition, rather than assimilation, is seen as the mainstay of Islamic culture.

The devotional cults of Sufis and the Bhakti movement were virtually the 'mascots' of the older books, which repeatedly drew on their traditions to put forth a case for cultural assimilation. Satish Chandra devoted much space in the textbook to a discussion of the Bhakti movement and Sufism. There is a complete reversal of this trend in the new textbook. Kabir, one of the most significant Bhakti poets of the medieval period gets all of two sentences devoted to him. This is in stark contrast to the earlier textbook where the discussion on him occupied three-quarters of a page.

The earlier focus derived from the emphasis on his work on the devotion to one God and Hindu-Muslim unity (a concept those books stressed repeatedly). The new section on Sufism explicitly denies its links with and inspiration from Hinduism. The non-assimilative aspect of Sufism is further underscored in the questions at the end of the chapter, which ask the students to explain the Islamic roots of the movement.¹⁰ It is made clear that in the Indian context the Sufis had resolved their difference with the ulema and emphasised the need to follow the shariya. In the entire portrayal of Islam in India, there is a constant refrain to the conflict between Islam and previously existing socio-cultural life. There is also a persistent denial of any forms of assimilation between Islam and Hinduism, be it in the form of Kabir's poetry or Sufism.

The Muslim 'other' is clearly being alienated by the nature of the textbook's portrayal.

References

1. *Organiser*, Vol. LIII: No. 27, January 20, 2002, p. 9.
2. Meenakshi Jain et al: *Medieval India: A Textbook for Class IX* (New Delhi 2002), p. 27.
3. *Ibid.*, p. 28.
4. *Ibid.*, p. 72.
5. *Ibid.*, p.73.
6. Satish Chandra, *Medieval India: A Textbook for Class XI* (New Delhi 2000), p. 37.
7. Meenakshi Jain, *Medieval India*, p. 115.
8. *Ibid.*, p. 29.
9. *Ibid.*, p. 121.
10. *Ibid.*, p. 128.

[Excerpted from "On the New NCERT Textbooks on Medieval India", by Atishi Marlena in *Revolutionary Democracy*, April 2004 issue.]

3.15 Discrimination in Access to Healthcare

The percentage of severely malnourished children in the age-group of 5–12 years was highest among Muslims at 33.5% followed by 30.2% for Scheduled Tribes. It was 28.7% for Hindus and the national average was 29%.

Table 3.19: Percentage of Villages with 40% or More Muslim Population Having Medical Facilities within the Village and Number of Villages Not having Health Facility – 2001 Census

State	Small Villages (<1000 Population)		Medium Villages (1000–2000 Population)		Large Villages (>2000 Population)	
	Percentage of Villages Having Medical Facility	Number of Villages Not Having Medical Facility	Percentage of Villages Having Medical Facility	Number of Villages Not Having Medical Facility	Percentage of Villages Having Medical Facility	Number of Villages Not Having Medical Facility
India	19.1	11193	36.0	7130	60.2	4680
West Bengal	37.5	1456	56.6	965	73.1	849
Kerala	N.A.	0	33.3	2	96.5	10
Uttar Pradesh	13.5	2342	31.0	1906	56.6	1240
Bihar	8.2	1329	12.9	1091	27.9	1208
Assam	13.2	1646	29.0	1323	49.3	698
Jammu & Kashmir	29.0	1224	54.6	456	83.6	134
Jharkhand	5.8	1118	12.5	498	27.8	226
Karnataka	19.1	152	35.5	71	82.2	23
Uttaranchal	20.7	65	42.3	45	73.0	31
Delhi	0.0	2	0.0	1	33.3	2
Maharashtra	30.9	152	57.5	77	78.0	33
Andhra Pradesh	22.0	46	55.3	17	86.0	7
Gujarat	52.9	121	68.1	51	89.8	23
Rajasthan	9.4	802	34.1	265	69.8	61
Madhya Pradesh	15.7	328	33.7	108	60.0	24
Haryana	8.9	175	19.8	146	66.4	48
Tamil Nadu	58.3	10	100.0	0	89.0	8
Orissa	6.8	96	16.4	56	40.5	25
Himachal Pradesh	13.8	56	75.0	1	100.0	0
Chhattisgarh	9.1	10	14.3	6	50.0	1
Punjab	0.0	10	9.1	10	100.0	0

Source: Data taken from Appendix Table 7.3 of the Sachar Committee Report, p. 358

3.16 Cultural Discrimination

Cultural discrimination is a potent weapon in the hands of a narrow but dominant Indian elite. Every society operates under a cultural milieu, which is carefully constructed by the cultural elite. This cultural discrimination provides the solid ideological foundation for all other forms of discrimination and also thrives on distorted and one-sided interpretation of some isolated facts. Even the media establishment plays a major role in this cultural construct. The contentious “fact” put out by the police that a couple of Muslim youth were behind some terror act in Delhi²⁵ has convinced the mainstream media that all Muslim youths are ‘terrorists’ unless proved otherwise. Entire geographical entities are given the terror tag by turning Azamgarhs²⁶ into Atank-ghars (Homes of Terror) in the dominant media discourse day in and day out.

And Varun Gandhi, after the National Security Act (NSA) on him was revoked, once again got the maximum media coverage for accusing uneducated Muslims for ‘breeding too much’ and threatening to subject them to forced sterilisation. A profound “secular” TV anchor promptly offered him voluntary advice that he should enforce compulsory education among Muslims instead. This might sound as a secular advocacy of enforced progress, albeit in an authoritarian manner. But the underlying bias is the same. For instance, widespread illiteracy is not a Muslim monopoly and moreover literacy is no longer a main indicator of cultural progress.

In Kerala, the literacy rate among Muslims is 90%, which nails the lie that Muslims are inherently backward educationally. But the decadal population growth rate among Muslims in Kerala is a high 16% compared to 9.4% among Kerala Hindus. This raises a question mark about the official theory of direct linkage between population growth and literacy growth. Even more curiously, the decadal population growth rate among Hindus in some Hindi-speaking states is almost double compared to the rate among Kerala Muslims and if the population growth rate among Hindus in the Hindi belt is brought down to the level of Kerala Muslims that would be a remarkable “progress” indeed!

True, literacy is an important factor in bringing down population growth rate but that is not the sole or even the main factor. The point is, this contrast underlines the need for proper contextualisation of data for every parameter and often very “secular” and “progressive” advocacies themselves might turn out to be culturally discriminatory. Concrete cultural settings in specific contexts do count in identifying the particularities of underlying discrimination.

Often cultural discrimination takes the form of an all-out cultural offensive. Take the case of beef eating. Exploiting the religious aura about cows among upper caste Hindus in the Hindi belt, the Hindu Right dubs Muslims and Christians as beefeaters to be ostracized. Food habits and food cultures differ from place to place. But the Hindu right is selective in its cultural offensive. Can Modi dare to declare that he would not allow any Western beefeater to enter his Gujarat Investors’ Meet carnivals? Discriminatory cultural offensives often come under “civilised” garb. Bihar CM Nitish Kumar recently came up with a sensible proposal that his

²⁵ This is in reference to the Batla House encounter of 2008 in Delhi.

²⁶ Town in the Indian state of Uttar Pradesh where Muslim youth were arrested on terrorism charges. See 3.18 below.

government would set up an agency to process rat meat and export it to countries where it is eaten as a delicacy to improve the earnings of Mushahars, a dalit sub-caste in Bihar whose main occupation is catching rats. All hell broke loose in the English media, which found this hilarious and alarming at the same time. The urbane upper caste media personnel started spreading panic among the middle class viewers: “Beware: Rat on Your Menu!”, “Rat meat might end up in your plate next time when you go to a star hotel in Bihar!” and some with alternating visuals of a rat and Nitish Kumar. Poor man, he quickly abandoned the proposal. The same media laments the fall in exports to China and Association of South East Asian Nations (ASEAN) but seems to be ignorant of the fact that rat meat has a large export market there. Intolerance to food cultures of others is passed off as civilised culture.

3.16.1 Moral policing

Due to the limited scope of this paper, we cannot deal at length with moral policing. Here we will just point out the fact that from the larger community/society beyond the immediate family circles, opposition to inter-caste and inter-community marriages are specially targeted at cases where either the bride or the bridegroom is either a dalit or a Muslim. Forget marriage, even socialising in public is considered a crime and results in physical attacks such as the one on the daughter of the Kerala MLA (Member of the Legislative Assembly) of the CPI(M) -- Communist Party of India (Marxist). Even a BJP Chief Minister from Karnataka and a Congress Chief Minister from Rajasthan showed remarkable unity by publicly wondering before the media how a boy and a girl from different communities could hold each other's hands in public!

Educational institutions insisting on uniforms and even a dress code among students to reduce the visibility of rich-poor differences is understandable. But rustivating a student for having a beard or a girl for wearing burkha, which strikes at their core religious values is definitely discriminatory. Authoritarian insistence on Muslims shaving the beard or girls to stop wearing the burkha or forcing students from Jehovah's Witnesses or Quaker's background to compulsorily sing the national anthem and general prayers goes beyond forced cultural homogenization and hurts their religious convictions and would amount to discrimination against them as many of them would drop out.

A false sense of cultural superiority is a discriminatory supremacist attitude. As a prominent women's movement leader pointed in the context of attacks on actress Shabana Azmi for her comments against Mullahs issuing fatwas against those not wearing burkhas, “Wearing burkha by itself cannot be identified with conservatism just as posing in bikinis cannot be identified with progress and modernity”!

State institutions, public institutions and political parties should avoid meddling in some controversies such as the veil but it is a foremost duty of women's organisations and democratic forces within the community to carry on an internal crusade against what they consider as retrograde. Neither the tuft/sacred thread nor the veil can be used as a stick to project whole communities as sub-cultured.

3.16.2 Cultural politics and politics over culture

Cultural offensives and discrimination are inseparable from the political objectives of the Hindu Right. At the popular level, sectarian and parochial attitudes are not very strong among the common people. Had it been so, emergence of some most popular sportspersons, actors and Bollywood singers and composers of minority origin would have been impossible. But communal profiling, demonization, communal slurs and stereotyping are devices aimed at communal polarisation and thus at influencing the voting pattern of the majority. But here too most of the voters who vote for the Hindu Right political party do not do so from purely communal considerations.

The very fact that the BJP itself is putting its Hindutva agenda on the backburner is a proof of this. Their attempt at communal politicisation of certain issues like Amarnath land dispute²⁷ or the Adam's Bridge controversy²⁸ did not click in the recent elections. The Congress and the state in general launched an offensive against the Muslim youth in the name of fighting terror and the BJP could not hijack the terror card all for itself. This is precisely the reason why in desperation the Sangh Parivar outfits are resorting to deeper Talibanisation at a broader level to prepare the grounds for greater communal polarisation, which they hope could be turned into political polarisation at appropriate junctures.

3.16.3 Cultural discrimination does not remain purely cultural

The continuing emphasis on rigid segregation is also to reinforce prevailing discrimination. Inter-caste and inter-community couples face the heat at all stages – boys and girls are beaten up if they mingle with people of the opposite sex from another community or caste. If they get married, they cannot live in the same area. Even eloping couples are caught – in some cases by the parents from both sides – and forcibly separated and, in a few instances in the Hindi belt, even killed. Honour killings supposedly to uphold the “honour” of the community! If even mingling with members of the opposite sex is considered a sin in the prevailing dominant cultures of the majority community, how would recruitment for jobs by members from this community who hold key posts remain non-discriminatory? ‘Muslims would seduce Hindu girls’ is a widespread negative stereotype; is this less inhibitive than the refusal of the

²⁷ On 26 May 2008, the Government of India and state government of Jammu and Kashmir reached an agreement to transfer 99 acres (0.40 km²) of forest land to the Shri Amarnathji Shrine Board (SASB) in the main Kashmir valley to set up temporary shelters and facilities for Hindu pilgrims. This caused a controversy, with demonstrations from the Kashmir valley against the land transfer and protests from the Jammu region supporting it. The largest demonstration saw more than 500,000 protesters at a single rally, among the largest in Kashmir's history.

²⁸ Hindu devotees believe the area between India and Sri Lanka - known as Adam's Bridge or Ram's bridge - was built millions of years ago by Lord Ram.

In their report submitted to the court, in connection with a case against a proposed shipping canal project between India and Sri Lanka, the Indian government and the Archaeological Survey of India questioned the belief, saying it was solely based on the Hindu mythological epic Ramayana.

They said there was no scientific evidence to prove that the events described in the Ramayana ever took place or that the characters depicted in the epic were real, which sparked off protests amongst Hindu activists and resulted in the withdrawal of the report submitted in court.

conservative Muslim men who refuse to allow their girls to go and study or work outside their homes?

3.17 Discrimination and Stereotyping in the Media

In the first week of June 2002, there was a tip-off from the Central intelligence agencies to the Andhra Pradesh government that two Lashkar-e-Taiba (LeT) militant had entered the State to carry out some terrorist activities. The State administration and the Railways administration swung into action and intensified security checkups. The TV channel *Times Now* belonging to a leading media monopoly group in India showed a news item in this regard. It showed the cases of four passengers frisked by the railway police – all of them were wearing caps and having beards. The impression created by the media was, “Beware of Muslims – All Muslim fellow passengers are potential terrorists”. Did the railway police frisk any other passenger without caps/beards? Or did the *Times Now* correspondent/news editor only chose to telecast images of Muslim passengers getting frisked? Whatever the case, the underlying assumption is clearly biased against Muslims as the LeT guys could have been clean-shaven ones as well if the intelligence report was true.

The coverage of the Mumbai terror incident²⁹ by the sensationalising Indian media was so awful that even the police and other state agencies found it too much as thousands of callers started giving “leads” about every Muslim they saw on their streets. More importantly, war cries and jingoism against Pakistan crossed all limits. If terror is used as an instrument of state policy by some “rogue” regimes as Indian authorities were alleging, they lose no time in using mediated terror as an instrument of counter state policy. If the camera became the more potent weapon than the RDX³⁰ serving the terrorist objectives behind terror acts, the gains of political aggression and war designs of the Indian state far outweighed the loss due to the physical attack of the terrorists.

Some Muslim youth from Azamgarh were arrested in relation to a bomb blast in Delhi. Their involvement was not proved and the incident itself came under a cloud. But all Muslims from Azamgarh were portrayed as potential terrorists. Azamgarh itself was turned into Atankgarh by the leading English TV channels, which showed the map of Azamgarh with the red images of flames or AK-47 in the background. An entire geographic entity was thus turned into a terror entity. Media thus not only unwittingly plays into the hands of terrorists and the “terrorizing” state, serving their objectives, but indirectly helps in discriminating against the minorities through stereotyped images and negative profiling.

²⁹ The 26 November 2008 attacks on more than ten locations across Mumbai which killed at least 166 persons and wounded more than 300. Ajmal Kasab, the only attacker who was captured alive, disclosed that the attackers were members of Lashkar-e-Taiba, the Pakistan-based militant organization.

³⁰ Also referred to as cyclonite, or hexogen, RDX (Cyclotrimethylenetrinitramine) is a white crystalline solid usually used in mixtures with other explosives, oils, or waxes; it is rarely used alone. It has a high degree of stability in storage and is considered the most powerful and brisant of the military high explosives.

3.18 Discrimination against Kashmiri Pandits

In the Muslim-majority State of Jammu and Kashmir, the share of minority Hindu population has reportedly come down from around 15% in 1941 to 5.24% as per the 1991 census. After the present phase of the insurgency intensified in J&K in the early 1980s, there were many attacks and even isolated massacres of Hindus in Kashmir, most of whom are Kashmiri Pandits. This resulted in large-scale exodus of Kashmiri Pandits to Delhi and other Hindu-dominated areas like Jammu in 1989. The internally displaced Pandits evicted by conflict situations are living like refugees. Neither the Centre nor the successive J&K governments adopted any effective set of measures to compensate them for the loss of their property, to rehabilitate them in the migrated areas which they consider safe or to resettle them in their own areas by providing assured security.

Since the Indian government has accepted Kashmir as a disputed territory before the UN, the displaced Kashmiri Pandits should be treated as refugees and extended relief at par with what refugees get from the UN elsewhere. The BJP, which never tires from making political capital in Jammu from the plight of the Pandits, did nothing substantial for them when they were ruling at the Centre, leave alone according them the status of UN refugees.

3.19 Encouraging Internal Processes of Reforms within the Minority Communities

In the context of discrimination, there are some controversial and unsettled issues relating to the role of the state vis-à-vis minorities and relating to secularism. While the state errs on both side of the community divide and conveniently sets aside secular principles where electoral considerations weigh supreme, the Hindu Right loses no time in picking up only those state violations in favour of minorities to launch an offensive against minorities.

Is the struggle between conservatives and reformists within the minority communities purely an internal affair or can the government extend support to reformists fighting within the communities for democratic reforms within the community? For instance, progressive Muslim women have often fought against reactionary mullahs who insist on the veil. The state did not act against those mullahs who issued open threats against Shabana Azmi for her comments against forcing veil compulsorily on Muslim women who are against it.

Bangladeshi writer Taslima Nasreen was hounded out of Kolkata and later from the India itself, where she had taken refuge as a second home, because the government wanted to pander to conservative interests. Even the Shankaracharyas³¹ have got away with provocative anti-women public statements and statements in support of sati (a Hindu tradition of the immolation of a widow on her husband's funeral pyre, now illegal) without the authorities laying a finger on them.

³¹ The Shankaracharya of Puri has on a number of occasions been heard as saying that Sati is sanctioned in the Hindu scriptures. Although an F.I.R. has been filed against the Shankaracharya he has still not been arrested. Glorification of Sati is punishable with imprisonment.

Lack of precision in the laws and discretionary powers in the hands of the state officials give ample scope for discrimination. For instance, can religious establishments/organisations be treated at par with any other civil society organisations for state support in their secular activities? In other words, can state resources be channelled through NGOs and welfare/relief delivery institutions promoted by religious entities and consider them similar to other NGOs? Should the law providing for registration of societies and trusts make a distinction between such outfits launched by religious entities and secular entities and lay down special norms for the former?

Do funding of hospitals and other healthcare institutions, orphanages, old-age homes, centres for abandoned and distressed women, day care centres/crèches, rehabilitation homes, relief activities, welfare activities for tribals and dalits, educational institutions coming under the purview of regulation by state educational boards etc., by religious establishments fall in a qualitatively different category compared to funding madrassas and other institutions imparting religious education, community centres/cultural centres used for religious activity, Haj pilgrimage and so on?

What if the supposedly secular activities are also indirectly used for strengthening the religious hold? Should there be a distinction between cases where the beneficiaries have a composite character drawn from all religions and where beneficiaries belong exclusively to the same religion?

Religious entities like church institutions and wakf³² boards control immense landed property in cities and gurudwaras (worship place of Sikhs) hold enormous amount of agricultural land and temples own lots of land, which are mostly enjoyed by a narrow group and not all the members of the respective religion in that locality. What can be the rational basis governing exemptions from urban land ceiling laws and agricultural land reforms legislations extended to religious institutions like endowments, temples, wakf boards, church institutions and other such bodies?

Can the government fund madrassas engaged in religious teaching apart from extending general education? Some would argue that universities with faculties on religious studies get state funding and RSS parallels like Ekal Vidyalayas and Saraswati Sishu Mandirs and church-run educational institutions get state assistance and hence why not quasi-educational institutions from Islam? Should there be any regulation on curriculum in state-assisted educational institutions run by religious entities and should they be brought under the state regulatory boards for education?

Can the state allow religious panchayats and religious community organisations to function as quasi-judicial institutions and act as kangaroo courts delivering “justice”, especially according to Sharia and other religious laws/codes?

Can a secular government fund religious activity of minorities like Haj pilgrimage and that too selectively only in the case of some religious communities? Now, there is a clamour from the

³² A waqf is an inalienable religious endowment in Islamic law, typically denoting a building or plot of land for Muslim religious or charitable purposes. It is conceptually similar to the common law trust, which many believe to have been influenced by the waqf.

outfits of other religious communities as well and at least one political party in South India, the All India Anna Dravida Munnetra Kazhagam (AIADMK), promised subsidies for Christians undertaking pilgrimage to Jerusalem in its election manifesto for 2009 parliamentary polls. Some advocates of the tourism industry justify such subsidies interpreting them as religious tourism and falling primarily within the realm of tourist activity. Then why selectively subsidise only religious tourism?

Some would advocate flexibility in adhering to the constitutional principle of secularism and emphasise on pragmatic policy option for a transitional period?

Is development of Hindu religious places in the name of heritage centres purely a civic issue? Are there no double-standards standards in this regard with a Sabarimala or Tirupathi getting more resources than an Ajmer or Velankanni?³³ Does funding not through religious entities but directly to individuals undertaking religious activity like pilgrimage make it more secular? Or, should the government limit itself to funding only the secular activities? It is argued by some liberals that latitude is needed for the state in adhering to or enforcing secularism while others insist on a rigid attitude of strict adherence to the Constitution?

What is true secularism: equal funding of religious activities of all religions or exclusion of all religious activities of all religions from state funding? Do minority rights include right to state funding for religious schools and other religious activities like religious pilgrimage? Does religious liberty include the right to encroach upon the area of public education?

Are prayers and worship and even rituals like lighting lamps or breaking coconuts during inaugurals or bhoomi pujas (groundbreaking ceremonies to launch projects), arthis³⁴ etc. loaded with the symbolism associated with the rituals of a particular religion during public functions and in public spaces permissible? After public criticism, the Meteorological Department gave up giving feminine names to cyclones but the Defence Department continues with religiously loaded names like Trishul for missiles!

Of course, arranging security for the exercise of religious liberty is different from funding religious activity per se. Civic amenities to pilgrims to Sabarimala or Tirupati and crowd control to prevent stampedes during Kumbh Melas are different from letting religious entities to grab public land on the banks of the Yamuna in Delhi to build the Akshardham temple and government bodies developing infrastructural facilities in that temple complex.

Discussions on these and similar issues will go on and most of them can be reconciled in a democratic manner through inter-faith/inter-community dialogue only if the state desists from selectively applying the principle of secularism and avoids the so called non-discriminatory approach by extending unprincipled treatment for all communities equally.

³³ Sabarimala or Tirupati are purely Hindu religious shrines on which the respective State governments spend a lot of money for pilgrims' convenience but Ajmer—a renowned shrine near Rajasthan where both Muslims and Hindus throng—and Velankanni/Nagore—an ecumenical shrine which attracts both Christian and Hindu devotees—do not witness so much of “development” of facilities for pilgrims.

³⁴ Camphor is lit in a plate which is considered very auspicious by Hindu believers

3.20 Cases of Discrimination by the Established Church

Minority religious establishments also discriminate against reformists within a religion. For instance, when some Christian women activists launched a campaign for right to divorce within the Catholic community and against certain other retrograde and repressive features against women in Christian personal laws, the Church establishment treated them almost like outcastes. Likewise, when some Malayalam playwrights adapted the play *Seventh Sacred Wound of Jesus Christ* dealing with the affair between Mary Magdalene and Jesus Christ by the renowned Greek playwright Nikos Kazantakis, Bishop Kundukulam in Kerala personally led a crusade against the Malayalee theatre group whose play was disrupted in several places.

Strangely, Hindu conservatives and the RSS supported Kundukulam on this. Likewise, a minister in Mulayam Singh's cabinet in Uttar Pradesh in the past announced a reward for those killing some Danish cartoonists who hurt the sentiments of Muslims with their work and he continued in his post unscathed³⁵.

3.21 Uniform Civil Code

Uniform Civil Code is a controversial issue though progressives acknowledge that there are several retrograde features against women in all personal laws. There are also internal voices of criticism against these personal laws. But the Hindu Right uses this issue as a major stick to beat minorities and to mobilise majority opinion against the minorities and also pose themselves to be progressives. But overhauling of personal laws should take place through internal reform process within individual religious communities and a uniform code should not be imposed through judicial fiat.

3.22 Muslim Women's Bill

Divorce by triple *Talaqs* and alimony for the divorced women always remained issues of concern, even within the Muslim community. When a Muslim woman Shah Bano won a landmark judgement³⁶, there was an outcry from conservative men from the Muslim community and the then government led by Rajiv Gandhi came up with a Muslim Women's Bill to curb the judiciary in this regard and to placate the Muslim conservative opinion thus pandering to the demands of the conservative sections and succumbing to their pressure.

The Hindu Right used this as good opportunity to paint Muslims black but the same Hindutva brigade indulged in physical attacks on the film crew of a Hindu film-maker, Deepa Mehta, filming *Water* in Varanasi highlighting the plight of widows in Hinduism.

³⁵ Haji Yakub Kureshi, who was a minister in Mulayam Singh's Cabinet, announced a cash reward of Rs. 61 crore for anyone who would kill the Danish cartoonist who caricatured Prophet Mohammad.

³⁶ Shah Bano was a divorced Muslim woman who was denied alimony under Muslim Personal Law by the Supreme Court which gave a judgement upholding her right of alimony which would have been applicable to all divorced Muslim women. Because of a backlash from conservative Muslims, who considered this as an undercutting of their personal laws by the judiciary, the Rajiv Gandhi Government in 1986 passed a Muslim Women's Bill to annul the effect of this judgement, which was widely condemned as an opportunist and retrograde move by all progressives.

3.23 Day-to-day Forms of Discrimination

There are discriminations which are blatant and there also ones that are more subtle. Some forms of discrimination flow from state policy and the manifestations are quite glaring as brought out by the Sachar Committee and the Ranganath Mishra Committee. There are also numerous other forms of discrimination in day-to-day life – like disembarking passengers with beards from flights suspecting them to be terrorists, imposing dress codes to prevent or force girls from wearing burkhas, preventing dalits from drawing water from a common water source, ban on their wearing shirts or sitting on a cot in the presence of upper caste men, or even riding cycles...there are any number of forms which are passed off as trivial by the authorities but these are no minor issues in day-to-day lives of the oppressed.

Often direct causal connection is not obvious in discrimination. If rampant sexual harassment – not just on the streets but right inside the office floors and other workplaces – and absence of a stringent law to check this is not recognised as a form of discrimination against women, relatively very low work participation by women would always remain a puzzle. If all schools begin the day for all the students with forced singing of Vande Matarams and Saraswati hymns and the like, and if fee hikes and non-fee extortion remain the main functions of these teaching shops, high dropout rate among minority, dalit and tribal children and their lack of interest in pursuing education will always remain a mystery for policy-makers and their offer of generous scholarships would hardly make a difference.

3.24 Discrimination against Migrants

Discriminatory double standards prevail on the question of migrants and migration. Thanks to prolonged political turmoil and social upheavals, millions of poor Muslims from Bangladesh have migrated to India in search of survival. Just because a few Bangladeshi youth were allegedly involved in some terror acts, overnight millions of Bangladeshi migrants have been branded as a security threat. Millions who eke out a livelihood as housemaids and rickshaw pullers have thus been transformed not just as “aliens” but as “potential terrorists” in the public eye.

The same Hindu Right which championed the demand for dual citizenship to the relatively affluent Indian NRIs (non-resident Indians) in the West clamours for the forcible deportation of the almost naturalised Bangladeshis mainly because most of them are Muslims. But the contradiction in the Hindu Right’s own position never troubles them: on the one hand, they declare their vision to be some *Akhand Rashtra* which includes Bangladesh and Pakistan, thus not really accepting the reality of Partition and thereby implicitly claiming the people there to be future citizens of the *Akhand Rashtra*. But if the poor from these areas migrate to India for survival they become “aliens” to be deported by force!

Earlier the slurs on the poor Bangladeshis were about their alleged uncontrolled sexuality and high reproductive rates. But, after some terror incidents by HuJI in Bangladesh, nowadays their migration is being equated with invasion. Obviously, they invade India only to work here as domestic helps and turn into worst victims of trafficking and sexual exploitation! Migrants

are usually minorities in areas of in-migration and they are usually denied ration cards, proper housing and even voter IDs. But in Mumbai, migrants from North India were being physically attacked and so also in Assam and Bangalore. Absence of any effective act to protect migrants (the Inter-State Migrants Act is toothless) is also a form of discrimination against them.

3.25 For a Consistent Struggle against Discrimination

In the perception of some of the Westernised liberal elite, we can detect an illogical discrimination among discriminatory practices: racism is bad but caste discrimination is not that bad; religious discrimination is bad but there is something inherently bad in Islam; Hindus are okay in the so-called civilizational conflict against Islam but not Hindu immigrants who take away jobs!

Such selective and preferential approach against only certain forms of discrimination is not unknown in India. The struggle against any form of discrimination thus should have a consistent approach on non-discrimination and oppose all forms of discrimination against any section on any grounds. After all, only a strong unity among all those who are victims of discrimination and strong solidarity from the democratic sections of the majority can roll back discriminatory practices considerably.

Some stark facts of discrimination brought out in the Dr. Gopal Singh Report of 1983:

There were 92 Muslims out of 2698 total students (3.41%) in engineering in nine universities of six states.

The number of Muslims in Bachelor of Medicine and Bachelor of Surgery (MBBS) courses in eight universities of eight states was 98 out of 2895 (3.4%).

The annual reports of 82 public sector undertakings of the Government of India revealed that out of 449 directors in the Board of Directors only 21 (4.2%) were Muslims.

None of the senior executives of the Life Insurance Corporation (LIC) of India at the time of preparing the Dr. Gopal Singh Panel report (1983) was a Muslim.

None of the 19 members of the Central Board of the Reserve Bank of India (RBI) was a Muslim.

In the small-scale industry sector, the representation of Muslims was about three percent.

Among bank officers, Muslim officers comprised a little over two percent.

The representation of Muslims in the paramilitary forces of the Centre was less than three percent.

The dropout rate among Muslims at primary stage in 27 districts of eight states was 66%.

The number of Muslim student in grades 10 and 12 was found to be 54,000 out of 1.344 million and a mere 5,645 out of 226,000 respectively in 12 state boards.

4. Measures to Redress Discrimination

Before summarising possible corrective measures on various fronts to bring down the level of discrimination against minorities and oppressed caste groups, let us briefly evaluate some key government measures that have already been put in place or are being initiated.

4.1 The National Common Minimum Programme (NCMP) of the Previous UPA Government (2004–09) on Minorities

The earlier UPA Government came up with the NCMP in which it promised some measures for the security and well-being of the minorities. In a brief outcome analysis, let us examine what they promised and whether they fulfilled those promises in the five years of their rule from 2004 to 2009.

The NCMP of the UPA I had the following as one of the six principles of governance:

“...to preserve, protect and promote social harmony and to enforce the law without fear or favour to deal with all obscurantist and fundamentalist elements who seek to disturb social amity and peace”.

Despite this promise they could not pass the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, though they introduced it in the Rajya Sabha (Upper House of the parliament) in 2005 itself. It must be noted that this is only the draft of a model Central law which will have to be adopted and notified by different states, as law and order is a state subject. This would mean the process would further get delayed. But nothing prevented the Congress-led state governments to pass their own laws on communal violence without waiting for a model Central law. But none of the Congress-led state governments or even the pretentious Left-led governments in West Bengal and Kerala bothered to pioneer in enacting such a law.

The UPA could do nothing about the spate of attacks on minorities in Orissa and Karnataka citing federal limitations though they could have intervened more forcefully to rein in these Opposition-ruled state governments.

They carried on a witch-hunt against the Muslim youth in Azamgarh after alleging that a few youth from Azamgarh were involved in a terror act.

They belatedly started moving against Hindu terror outfits.

They, in collusion with the Left Front (LF) Government of West Bengal and the CPI(M) on whose support from outside the government depended, banished Taslima Nasreen from the country to pander to the interests of minority communalists.

It appointed the Sachar Committee but during its first term the UPA did not commit itself to implementing the key recommendation of the Committee, viz. setting up of an Equal Opportunity Commission.

Likewise, it also did not take a position on Justice Ranganath Mishra Commission's recommendation to introduce reservation for minorities in government jobs and education.

The NCMP had an entire section on women but not a single clause on minority women in particular and did not address the special problems they faced.

With regard to non-discriminatory representation in the private sector, all that the NCMP of the UPA-I promised was that it would initiate a "national dialogue with all political parties" to explore "how best the private sector could fulfill the aspirations of the Scheduled Castes and Scheduled Tribe youth". It is to be noted that the NCMP was not categorical on the issue of reservation in the private sector and even the private sector affirmative action, in the UPA's view, was limited to SCs and STs and not to minorities and women. In any case, there was no dialogue with the political parties or the industry chambers. There was no policy laying down the criteria either for fair representation or a package of incentives for industries meeting those criteria.

The NCMP promised that, "The UPA is committed to the implementation of the Places of Worship (Special Provisions) Act, 1992. On Ayodhya, it will await the verdict of the courts, while encouraging negotiations between parties to the dispute for an amicable settlement which must, in turn, receive legal sanction". However, the Supreme Court was not approached to expedite trial on the lingering Ayodhya case³⁷ nor the Liberhan Commission³⁸ urged to complete its enquiry into the demolition. Its term was given 48th extension and only in July 2009 this commission submitted its report and only after the highlights of the report were leaked by the media did the government table this report in the parliament in November 2009. It appears that both the courts as well as the government consider the demolition a closed chapter with the assumption that an early verdict will reopen wounds. So there is no hope of rendering justice to this body blow on secularism defying even apex court directives and the culprits might escape being brought to books.

In addition, the Centre led by the UPA did not act decisively to restrain the governments in Karnataka and Madhya Pradesh led by the opposition BJP when they encouraged communal forces to launch offensives centring around Baba Bhudangiri shrine³⁹ and Bhoj Shala⁴⁰ issues respectively.

³⁷ Several cases still pending in the Supreme Court relating to the demolition of 1527 mosque built by Moghul emperor Babur.

³⁸ A commission of enquiry set up to look into the circumstances leading to the demolition of the Babri Masjid at Ayodhya and to identify the culprits. The commission which was asked to complete the enquiry in three months, took 17 years and submitted its report on 30 June 2009 which was tabled in the parliament by the UPA-II Government in November 2009 after the report was leaked to the media.

³⁹ Baba Budangiri is a shrine in Chikmagalur district of Karnataka where both Muslims and Hindus worship as it is a shrine of both the Sufi saints Baba Budan and Dada Hayath, and Dattatreya, believed to be an incarnation of Lord Shiva, thus representing syncretic culture. The Sangh Parivar threatened to organise Hindu worships right at the time when Muslims used to offer prayers to the sufi saints. The Sangh Parivar tried to forcefully grab the shrine for their communal design.

⁴⁰ Kamal maula Masjid in Dhar district of Madhya Pradesh was also known as Bhoj Shala, a Saraswati temple supposed to have been built by medieval king Bhoja, in popular consciousness. The Sangh Parivar tried to do another Ayodhya here

In the absence of a stringent riot act and an act against communal violence, the UPA's first term witnessed more than 1000 attacks on churches, pastors and nuns, not just in Orissa and Karnataka but also in States ruled by the UPA constituents. There were continuing attacks on dalits and tribals converting to Christianity in Dangs, Gujarat and there was a spurt in anti-Muslim riots in Madhya Pradesh where 32 people were killed in communal riots in 2008 alone. There were anti-Muslim riots in Mandasaur (Mar 2009), Ujjain (Oct 2008), Burhanpur (Oct 2008), Indore (Jan/Jul 2008), Sarangpur town of Rajgarh district (Mar 2008), Haat Pipaliya town (Feb 2008), Narsinghgarh (Apr 2007) and in many other smaller towns. And, of course, there was anti-Christian violence in Jhabua-Meghnagar.

In the sphere of education, the NCMP promised that, "The UPA will promote modern and technical education among all minority communities. Social and economic empowerment of minorities through more systematic attention to education and employment will be a priority concern for the UPA". The only concrete measure launched was the introduction of a scholarship programme for minority students.

The other major promise was the setting up of a national commission for minority educational institutions. Of course, the UPA passed an amendment to the Minority Educational Institutions Act and set up such a commission but the objective was clearly to expedite clearing of the proposals seeking license for setting up educational institutions by minority entities without any regulation on their fee structure. This paved the way for the proscribed capitation fee institutions to reappear under the garb of minority institutions and the minority students were left in the lurch without any protection from exploitation by these teaching shops. In addition, these minority educational institutions were left out from the ambit of reservation for OBCs and SCs-STs.

It is as if that the educational discrimination of minorities can be redressed only by doing away with positive discrimination in favour of OBCs and SCs-STs. Also, the government simply glossed over the differentiation of Muslims into OBC Muslims, tribal Muslims, lower caste Muslims and Christians into upper caste Christians and dalit Christians and Sikhs into upper caste Jat Sikhs and dalit (Majabi) Sikhs etc. No preferential treatment for these oppressed sections among minorities exists within the ambit of minority educational institutions.

This despite a categorical specific promise in the NCMP: "The UPA will establish a National Commission to see how best the welfare of socially and economically backward sections among religious and linguistic minorities, including reservations in education and employment, is enhanced. The Commission will be given six months to submit its report". Neither such a commission saw the light of the day in the five full years of the UPA's first term nor this approach of recognising disparities within the minority communities reflected in other pro-minority measures.

The NCMP also promised, "Adequate funds will be provided to the National Minorities Development Corporation to ensure its effective functioning. The UPA government will

examine the question of providing Constitutional status to the Minorities Commission and will also strive for recognition and promotion of Urdu language under Article 345 and 347 of the Constitution”.

How adequate are the “adequate funds” promised? In the four years from March 2002 to April 2006, the National Minority Development Corporation disbursed Rs. 400 crore which works out to an annual average of Rs. 100 crore, i.e. a whopping amount of around Rs. 5 per capita for nearly 20 crore minority population in the country including Muslims, Christians, Sikhs and Buddhists as well as minority Hindus in some States like J&K, Nagaland and Mizoram! You can compare this with Rs. 20,000 crore the UPA Government will be spending on the Commonwealth Games alone to get an idea of relative importance the government attaches to minorities welfare vis-à-vis promoting tourism industry and the real estate mafia.

Channelling development assistance to the so-called weaker sections through market forces by means of credit corporations is a fashionable idea pushed by the World Bank and if you examine the actual economic impact of such corporations like SCs & STs Development Corporations, Backward Classes Development Corporations, Minority Development Corporations set up by the Centre and the States with low paid-up capital, most of these in effect turn out to be Bureaucracy Development Corporations as they spend more on their own overheads than what they lend to the targeted sections. The selection of beneficiaries is highly arbitrary and steeped in corruption.

The NCMP thus turned out to be a Common Maximum Programme when it came to development of socially underprivileged groups and even this was not implemented in full. The second edition of the UPA Government which took office in May 2009 declined to come up with a common minimum programme and hence the Congress Manifesto is the only blueprint to measure the accountability of this government and to evaluate to what extent its words/promises match action. The much-trumpeted 100-day plan mooted by the Prime Minister does not have anything substantial on minorities.

4.2 Need for Stringent Laws against Communal Violence, Hate Crimes and Discrimination

While stringent laws will definitely have some deterrence effect in curbing hate crimes and communal violence, the law has its limitations in societies where hate culture has deep roots. A deeper cultural understanding of bias, prejudice and hate phenomena is required to counter sectarian hatred on the cultural plane which alone can prove to be effective in the longer run. However, this cultural offensive will get diverted in the absence of an effective criminal justice system and progressive activists will be preoccupied with the task of securing justice in individual cases. Hence, the demand for stringent laws against communal violence is an urgent one.

Of course, law has its limits and bias and prejudice are questions of culture. Bias crime laws by themselves are not a solution for discrimination in the society just as hate crime laws on their own cannot put an end to communal violence. A democratic cultural offensive is the

perennial need. Just as communal and hate crimes are not a matter of law and order alone, bias crimes cannot be curbed purely by relying on the state, not only because sections of the state machinery itself are often biased. Democracy is not a matter of institutional arrangement alone but a process of evolution. Similarly, a tolerant society can be achieved only through an ongoing struggle, not only by the victimized communities but by all democratic forces ready to step out in solidarity.

With this overall framework in mind let us address the question of strengthening the legal framework on communal crimes and the criminal justice system. The criminal justice system can hardly be effective where there is a vacuum in the law itself and where the existing laws have not much teeth. After the Babri Masjid demolition and Mumbai and Gujarat riots, the citizen's confidence in the integrity and efficacy of the system that enforces law is thoroughly shaken today. When enforcement of law depends more on the discretion of the police and the prosecutor, bias and prejudice will definitely come into play even if there are stringent laws on the law book. Overhauling the hate/communal crime prosecution system has thus become the most important area of judicial reforms.

In hate crimes, the victims are not just individuals. The impact of the crimes transcends individual victims and inflicts a sense of fear and insecurity in the larger community. We have already seen that hate crimes often spring from the political motivation of causing such insecurity and communal polarisation. So the gravity of the hate crimes cannot be measured on the basis of damage caused to the individual alone as the damage caused to the social fabric is immeasurable. So crimes of a special nature need special laws to tackle; if you can have draconian anti-terror laws, why shy away from having stringent laws against communal crimes? When victims are selected because of their religion and caste so as to terrorise all the members of that community in that locality, is this not a form of terrorism? Is mob terrorism a lesser evil than individual/group terrorism?

Logically speaking, the anti-terror laws should also apply for these bigots indulging in hate crimes terrorising an entire community. But this never happens; rather, only the innocent youth of an entire community are subjected to a witch-hunt when a few members from that community are believed to have been involved in some terror acts. Strangely enough, when entire communities are terrorised, the delivery of justice is individualized but when some individuals resort to terror acts the entire community is hounded and punished. Hundreds of youth from Azamgarh were picked up for interrogation when at the most two or three boys could have been involved in that bomb blast.

When thousands get killed or maimed in Gujarat, cases are filed against only around 700 persons and the law finally catches up with about a dozen guys after seven long years. Some justice this! There should be enough provision in the law to ensure quick delivery of justice not only to individuals but also to entire communities. Selective individualised justice on its own cannot render community justice.

When bigotry against religious minorities, oppressed castes or even north Indian migrants becomes the main basis of existence of some political parties and leaders, then there is

something seriously wrong with the electoral democracy in India. Long pending electoral reforms should also address this as a main agenda.

Communal violence often arises not out of inter-community conflicts but spearheaded by vigilante groups like the VHP and Bajrang Dal. Effective laws are needed to check the activities of such groups or to ban and disband them.

Coming to the prosecution and enforcement machinery, at present, the laws against anyone trying to create discord between communities are being selectively implemented and enforcement is politically governed. While de-escalation of communal tensions and defusing a communally charged situation is primarily a political process, the prosecutorial and enforcement machineries cannot be governed by political considerations and the deterrent role of stringent laws and enforcement machineries in ensuring delivery of justice to each act of communal violence and to each individual victim as well as to the whole community cannot be underestimated.

4.3 Relief and Rehabilitation Assistance to Victims of Communal Violence

The UPA Government provided Rs.714 crore to the victims of the 1984 anti-Sikh riots and Rs. 70 crore for the victims of Gujarat riots. An additional package of Rs. 262.5 crore for the Gujarat victims and Rs.29.8 crore for the victims of Bhagalpur riots has also been approved but since there was no independent mechanism to directly disburse the aid to the victims and the concerned states were under the opposition-led governments, the belated aid was not disbursed.

To highlight the tokenism in riot relief policy of the governments, let us illustrate the case of the Bhagalpur riots of 1989. The riots took a toll of 1070 lives, most of them Muslims. According to official figures, 11,500 houses in 195 villages were destroyed displacing 48,000 people. About 10,000 weavers lost their powerlooms and livelihoods, at least for a few months. 68 mosques and 20 mazaars (shrines) of Muslims were destroyed but the Muslim community never got any compensation to rebuild these. Nearly after a decade and a half, due to political contention for Muslim votes between JD(U) and RJD, the Nitish Kumar Government gave Rs.1 lakh each to the families of only 634 victims. A few among the injured got Rs.10,000 each from the Prime Minister's Relief Fund more than a decade after the riots. The Centre was still withholding the sanctioned amount of Rs.29.8 crore.

The police filed 811 FIRs (first information reports) in 1989, but filed charge-sheets only in 302 cases. In nearly two decades, the trial courts had disposed of 152 cases acquitting the accused in 119 cases and convicting the guilty in 33 cases and the 10 who got life imprisonment in these 33 cases have also filed appeals in the High Court and have come out on bail. Only two public prosecutors were appointed for all these 302 cases and that too in 1995 only. With assistance from TISCO, a company of the Tata Group, the district administration built 200 houses and, according to a report in *The Week* magazine by Kanhaiah Belhari on 31 October 1999, the riot-affected were living in only five of those villages and the rest have been grabbed by anti-socials.

A two-member inquiry commission comprising Ram Chandra Prasad Sinha and Shamsul Hasan, both retired judges of the Patna High Court, submitted its report in June 1995. The committee held 14 officers guilty, but no action was taken. In fact, not a single case was filed against the guilty police officials indicted by the commission by successive governments swearing by social justice and claiming to be saviours of minorities. It is to be noted that the gory Bhagalpur riot was a fall-out of Advani's rath yatra⁴¹ taken out in the same year but there was no provision in the law to implicate him in any manner. But Bhagalpur continues to remain a bone of political contention in Bihar and figured as a prominent issue in the Lok Sabha polls in 2009 in Bihar.

There is no law yet in the country for the victims of communal violence to provide legal entitlement to adequate relief and rehabilitation from the state and only belatedly on the very auspicious day of 1 April 2008, the UPA Government launched a scheme to assist victims of terrorist and communal violence.

Apart from a stringent law to punish the culprits responsible for communal violence, a policy for adequately compensating for the loss of life and property in communal riots and other cases communal violence is thus badly needed.

4.4 Equal Opportunities Commission

The constitution of India provides the following rights of equality to all citizens:

Article 14: Ensures equality before the law and equal protection by the law

Article 15: Prohibits discrimination on the grounds of religion, race, caste, sex and place of birth.

Article 25: Ensures freedom of conscience and the right to freely profess, practice and propagate religion.

Article 26: Ensures right to manage religious institutions, religious affairs, subject to public order, morality and health.

Article 29: Protects minorities' right to conserve their language, script or culture.

Article 30: Provides for the protection of the interests of minorities by giving them a right to establish and administer educational institutions of their choice. The state is directed not to discriminate against minorities' institutions in granting aid.

Article 350A: Directs the state to provide facilities for instruction in the mother tongue at the primary stage of education.

⁴¹ Ratha Jatra, the Festival of Chariots of Lord Jagannatha is celebrated every year at Puri, the temple town in Orissa, on the east coast of India.

Despite this, we have seen how the facts indicate the status of minorities as second grade citizens. It is not enough if lofty principles of equal opportunities are enshrined in the Constitution and equality is the professed state policy. What is really needed is a strong oversight and an autonomous enforcement body free from interference of the executive and empowered with judicial powers. Well, such Equal Employment Opportunity Commissions are in existence in the USA as well as in the EU though their intervention is limited to discrimination in employment only. In the developing country context of India, here such a commission should also oversee and guarantee equitable devolution of welfare funds and developmental and infrastructural funds of the state to all communities.

4.5 The Vexed Question of Reservation for Minorities

The question of reservation for minorities is a political hot-potato, not only reservation of seats in parliament and State legislatures but even reservation in government jobs and in education. There is no reservation for even the demographically substantial (Hindu) OBCs in parliament and assemblies.

There is some light finally at the end of the tunnel for women's reservation. But even this issue is not without its uncertainties. But some minority outfits keep raising this issue of political reservation from time to time without much success. Routine lobbying and even vote-bank considerations will not help much in this case as it involves an amendment to the Constitution and two-thirds majority support in the parliament.

In a suitable political conjuncture in the future, if this demand for reservation for minorities in parliament and legislatures gets linked up with the demand for similar reservations for OBCs and gets the backing of a favourable social and electoral-political realignment, the achievement of this demand cannot be ruled out for all time to come in the distant future.

But the demand for reservation for minorities in government jobs and education would not be that explosive though this is also not an easy one at the national level. The Ranganath Mishra Commission recommended this though the Sachar Committee avoided it. Some State governments like that in Andhra Pradesh led by YS Raja Sekhara Reddy, in Tamil Nadu by M. Karunanidhi, a powerful ally of the Congress, and even the Mayawati Government in UP from the opposition camp have promised reservation for Muslims in jobs and educational institutions at some point or the other, especially in the run-up to the elections, more as a psychological sop as they were clearly aware that it was not possible without first amending the Constitution. The left parties never really championed, or even unreservedly supported, this demand. Despite favourable postures in some States, the Congress or other UPA parties have not promised a Constitutional amendment yet to facilitate this.

The very fact that the UPA Government avoided for long even tabling the Ranganath Mishra Commission report in the parliament and making it public indicates that the Congress is also not prepared to go beyond limited non-controversial sops limited to the broad parameters of the Sachar Committee report. And it also depends on the likelihood or otherwise of the Muslim

votes returning to the Congress in the crucial Hindi belt (linguistic region in North and Central India where Hindi languages are widely spoken). Ultimately, it all depends on how much votes anything beyond a package of tokenist sops like the 15-Point Programme or the Scholarship Programme would alienate and how many additional votes/seats that would bring in.

Nevertheless, fair representation of minorities in parliament and legislatures matching their share in the populations remains an issue. Taking the largest minority community of Muslims, in 2004, 38 Muslims were elected to the Lok Sabha but the number came down to 30 in 2009. If their number is to match their share in the population, as per the 2001 Census, the number of Muslim MPs in Lok Sabha should be 72. But it is just around half that number.

Even if we consider the number of Muslim candidates figuring in party lists, out of more than 400 seats it contested the Congress fielded only 20 Muslim candidates in the recent elections and out of them only 11 won. The left parties also fielded Muslim candidates only in 5% of the seats they contested. Even demographically, “winnability” favours Muslim candidates only in a few constituencies, than the proportionate number matching their population share. And additionally, it is doubtful whether Muslims vote en bloc; with so many contenders for Muslim votes among “secular” parties, even the “Muslim vote” gets divided.

Anyway, in 2007, the leading Muslim outfits and campaign committees came together to launch the Joint Committee of Muslim Organisations for Empowerment (JCMOE) to campaign for this demand. This outfit has demanded that the Muslim community be “recognised as a Backward Class under Article 15(4) of the Constitution. Though not categorically demanding reservation of parliamentary and assembly constituencies for Muslims as at present earmarked for SCs and STs, this forum of Muslim organisations has called for “raising the representation of Muslims in parliament, legislatures and in the panchayati raj institutions (local bodies) by appropriate demarcation/delimitation and rotation of reservation for SCs-STs and de-reservation of Muslims-concentrated reserve constituencies as minority candidates hope to win some reserved seats if they are de-reserved.

In addition, they have also mooted the idea of double-member constituencies. Still, this has not yet become a burning issue among the minorities as large sections within the communities themselves show some circumspection in vociferously advancing this demand in view of its possible dangerous political fallouts.

Still, the question of fair political representation of minorities remains a live issue. The political aspirations/ambitions of minority groups are also on the rise. The recent phenomenon of the mushrooming of Muslim political outfits like Assam United Democratic Front (AUDF), All India Muslim Majlis-e-Mushawarat (AIMMM), Milli Council, Jamaat-e-Islami Hind, (JIH), Jamiat Ulama-e-Hind (JuH) etc., contesting elections as Muslim parties did not click except in the case of AUDF in Assam. The minorities have also not yet institutionalized an effective mechanism of bargaining with political parties for a greater number of allocation of seats in their lists. Even the so called “tactical voting” by Muslim voters is guided by voting for the candidate of a non-BJP party most likely to win and that is not governed by the religious background of the candidate in all circumstances.

4.6 Socio-Economic Measures

To overcome the inter-community gap, protective and positive discrimination in favour of minorities and oppressed caste groups on a wide gamut of socio-economic issues would be required. Before presenting some of our own proposals and summarizing some of the main demands of the movements for an egalitarian society in this regard, let us examine the current government measures in the interests of minorities.

Before evaluating the existing government promotional measures in favour of minorities, let us list some proposals recommended by government-appointed committees which have not been implemented by the government.

The Ranganath Mishra Commission has recognised minorities as a “Backward class” as stipulated by the Constitution and has recommended 15% reservation for minorities in jobs and education out of which 10% exclusively for Muslims.

The Sachar Committee recommended setting up of an Equal Opportunities Commission⁴².

As we have seen above, both these major proposals have been put in the cold-storage by the government. Since we have briefly examined these two issues above, in this section we will focus on other socio-economic measures. The only other major programme undertaken by the first UPA Government was the Prime Minister’s 15-Point Programme. We will briefly evaluate this and other ongoing programmes of the governments for minorities at the Centre and some States.

4.6.1 Ongoing Government Programmes for Minority Development

The UPA Government adopted a revised “New Prime Minister’s 15-point Programme for Minorities”. Much media hype around this newly packaged 15-point programme in combination with the appointment of the Sachar Committee did create some visibility to the pro-minority gestures of the UPA Government and helped in improving the image of the Congress among minorities as reflected in the return of a sizable section of minority voters to the Congress in both Uttar Pradesh and Bihar.

A newly introduced scholarship scheme for minority students for example was really a hit among poor minority students in small towns of UP. But the implementation of the New 15-PP is limited to 90 minority-concentration districts out of which 66 were Muslim-concentration districts. The total Muslims in these 90 districts comprise only 34% of the total population of Muslims in the country. So only one-third of Muslims were entitled to the benefits of the much-hyped 15-point Programme and the remaining two-thirds were left in the lurch. This focus on minority concentration districts is a clever move from an electoral angle as sops can

⁴² http://minorityaffairs.gov.in/newsite/sachar/sachar_comm.pdf

be targeted at minorities only in those areas where the number of minority voters can make a difference in elections. But this exclusion of the dispersed is not the only shortcoming.

In fact, the UPA has been in the habit of repackaging some ongoing schemes under a new label and passing it off as a new scheme. They did it in the case of Bharat Nirman⁴³, in the case of rural employment programmes like National Rural Employment Guarantee Act (NREGA) and they have pulled off a similar trick in the case of welfare programmes targeting minority communities as well. The new label in this case is Prime Minister's New 15-Point Programme which contains only a few new schemes/measures and the rest were just revamped old schemes. The New 15-Point Programme was launched in June 2006. Only few schemes in this 15-Point Programme are exclusive schemes for minorities – the three scholarship schemes (though similar schemes are also in existence for dalit and backward students), the Multi-Sectoral Development Programme for the 90 minority concentration districts (for these districts as a whole and not exclusively for minorities alone in these districts) and increasing the corpus of Maulana Azad Education Foundation which assists exclusively minority students.

The professed aim was to ensure that “the welfare benefits reached the most disadvantaged sections of minorities”, though there is no official policy on, or classification of, these sections among the minorities. The idea was to earmark 15% of the overall budget to target minorities, on schemes where such targeting was possible. Note that the percentage of minority population in the country as per 2001 Census was 18.4% (Muslims, Christians, Sikhs and Buddhists only and Jains and Hindus and other minorities in Muslim-majority J&K and Christian-majority Nagaland and Mizoram not included in this 18.4%) and 15% targeting in the schemes by itself marks a marginal discrimination. More so when you consider the fact that 18.4% was the national percentage of total minority population and as the 15-Point Programme is to be implemented only in 90 select high-minority population districts, even this 15% target for minorities would be more disproportionate to their population in those districts as the criterion for selection of a minority concentration district is that it should have at least 25% minority population.

Worse, the Ministry of Minority Affairs has issued guidelines for the new 15-Point programme which says that in both urban as well as rural areas the BPL⁴⁴ share of the minority population should be taken into account to arrive at the share in benefits and not the entire minority population!

In other words, 15% allocation for a population of 25% and above in only around 15% of the districts and that too in a few schemes only – even though the total welfare and social sector schemes number more than hundred. The government never feels it owes an explanation as to why there is no matching proportion for minorities at par with their share in the local population in targeting in more schemes or why only a very few schemes and not others are ‘amenable to targeting’ as it is under the assumption that welfare is not a matter of right or entitlement

⁴³ Bharat Nirman, a programme for the development of rural infrastructure and irrigation supposed to be to the tune of Rs. 1,80,000 crore, was actually a packaging of many of the ongoing schemes but was presented as a new scheme by the UPA-I Government. So also many ongoing rural employment-support schemes were rolled into the NREGS.

⁴⁴ Below the Poverty Line

but a question of a generous regime's munificence! Or, at best it is a vote-catching device. But, in the bizarre official framework of paltry affirmative action and positive discrimination, "ensuring" that the minorities would get less than what is due to them matching their share in the population is a "special flagship project" of the government for minorities and "votebank" politics for the Saffron Opposition! In other words, tokenism for minorities is the common denominator for both the politics of minority-ism as well as majoritarianism.

The joke of "positive discrimination" does not stop at this. The wise policy-makers of the UPA had come to the conclusion that only nine social sector schemes are amenable to targeting. The nine schemes are:

- 1, Integrated Child Development Scheme (ICDS);
2. Sarva Siksha Abhiyan (SSA);
3. Swarnajayanti Gram Swarajgar Yojana (SGSY);
4. Swarna Jayanti Shahari Rojgar Yojana (SJSRY);
5. Sampurna Grameen Rojgar Yojana (SGRY);
6. Industrial Training Institute (ITIs);
7. Bank credit under priority sector lending
8. Indira Awaas Yojana (IAY); and
9. Integrated Housing and Slum Development Programme (IHSDP) and Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

There has been no official explanation as to why only these nine schemes are "amenable" for targeting and why others have not been selected. For instance, why have the National Rural Health Mission (or the proposed National Urban Health Mission) or the women's welfare programme for building women's hostel not been chosen? Or building a primary health care or community health care or a hospital under NRHM/NUHM or an additional "model school" in minority-concentration districts or separate high schools and colleges for Muslim women (Muslims are generally averse to sending their daughters to co-ed schools and though this aversion is to be discouraged in the long run on the cultural plane, in the short run, special high schools and exclusive girls' hostels are essential as absence of these is an important reason for very high dropout rate among Muslim girls)?

And, finally, even these lower targets of 15% on a few schemes were not fully met. The physical achievement for ICDS was 37% in 2006–07, and it was 80% in SSA, 37% in SGSY, JNNURM 18% and BSUP (Basic Services to the Urban Poor) 41%.

The budget for 2006–07 or the subsequent union budgets did not fully reflect the 15-Point Programme. Specific allocations were not made to the adequate level. But even on paper there was discrimination: These programmes remained on manifestoes and ministerial declarations but never crept into the budget papers! And that is UPA's "flagship" to drown the minorities!

Table 4.1: Implementation Record of the New 15-Point Programme

Scheme	2006-07	2007-08	2008-09 (Till December 2008)
Sarva Siksha Abhiyan			
Primary schools constructed in minority concentration areas.	961	2008	3226
New upper primary schools	1114	3001	2238
Kasturba Gandhi Balika Vidyalayas sanctioned in blocks with minority concentration	97	219	120
Swarnajayanti Gram Swarajgar Yojana			
Swarajgaris benefited	60,494	143,385	186,570
Indira Awas Yojana			
Families from minority communities assisted in house construction	14,236	155,980	239,235
Swarn Jayanti Shahari Rojgar Yojana			
Beneficiaries assisted with skill training	15,933	41,466	13,742
Priority Sector Lending (PSL) (The target was to raise lending to minorities to 15% from 9%)			
Share of minorities in priority sector lending	--	Rs.58,662.67 crore (9.67% of total PSL)	Target – Rs.86774.07 crore (13% of total PSL) Achievement – Rs.71,566.58 crore (10.72%)
Improvement in recruitment to government services and public sector units			
Improvement in recruitment share over the previous year	6.95%	8.65%	--
National Minorities Development Finance Corporation (NMDFC)			
Increase in the share capital of NMDFC	Rs.650 crore	Rs.750 crore	Rs.850 crore
Beneficiaries assisted	22,301	31,874	51,198
Total assistance (up to 31 December each year)	Rs.99.58 crore	Rs.130.9 crore	Rs.130.72 crore
No. of Micro-credit Beneficiaries	25,432	18,158	N.A.
Funds distributed to micro-credit beneficiaries of minority background	Rs.13.17 crore	Rs.13.22 crore	N.A.

Source: initiatives taken by the Ministry of Minority Affairs for the Welfare of Minorities, MoMA, available at http://minorityaffairs.gov.in/newsite/statistics/Policy_Planning.pdf and NMDFC data from the official NMDFC website <http://www.nmdfc.org/achievements.html>

It takes special targeting to construct about 2000–3000 schools in 25 states and Union Territories and still this is a fraction of minority concentration habitations without schools (See the table 3.14 — Number of Villages without Basic Facilities in Chapter 3) and at this rate it will take decades to set up schools in all villages with sizable minority population. There are anywhere between 4 to 6 crore casual wage labourers among minorities and less than 2 lakhs got employment assistance under SGSY. The increase in IAY has been impressive compared to the earlier position but still it falls short of the targets set by the 15-Point Programme itself. Priority sector lending for minorities seldom crossed 10% of total priority sector lending but even this low figure should be looked at from the angle that the banks never reached the overall priority sector lending target of 18% for all. This means the deprivation for minorities would be even more in absolute terms. And, in spite of the special thrust, the share of minorities in government recruitment never crossed 8%.

4.6.2 Scholarship scheme to aid minority students

The enhanced scholarships scheme to minority students is perhaps the only significant programme involving direct hard cash transfers undertaken by the first UPA Government on the minorities front. During the XI Plan period, 41 lakh minority students are supposed to get scholarships. For the entire Eleventh Five-Year Plan period (2007–12), the government is supposed to spend a substantial amount of Rs. 5559.50 crore.

The break-up figures are: Merit-cum-Means Scholarship Rs. 934.50 crore, Pre-Matric (matriculation) Scholarship Rs. 2500.00 crore and Post-Matric Scholarship Rs. 2125.00 crore. These figures finalised in the XI Plan document approved by the National Development Council look impressive. But the budget allocation in the first year of the Plan did not match the Plan figures.

In the Annual Plan for 2007–08, two schemes were allocated funds as follows:

1. Merit-and-Means Scholarship (Rs.54 crore)
 - For technical and professional courses at undergraduate and postgraduate levels.
 - 20,000 scholarships every year
 - 30% earmarked for girls
 - Full fee reimbursement for 50 top institutes
2. Coaching Scheme
 - Enhancing capability of candidates to compete for:
 - Group A, B and C posts in government;
 - Jobs in private sector;
 - Entrance examinations to technical and professional courses;
 - Recruitment as constables; and
 - Remedial tuition.

In addition to these schemes introduced in the 2007–08 Annual Plan, the following schemes have also been planned for the XI Plan period: The funds allocation in the first year is given in brackets.

1. Pre-Matric Scholarship Scheme (Rs.80 crore)
 - From Class I to Class X
 - 25 lakh scholarships for the XI Plan
2. Post-Matric Scholarship Scheme (Rs.100 crore)
 - Class XI, XII, undergraduate, postgraduate, M.Phil, Ph.D.
 - 15 lakh scholarships for the XI Plan
3. Grants to SCA [Special Coaching and Allied Scheme] (Rs.10 crore)
4. Multi-sectoral Development Programme (Rs.120 crore)

Table 4.2: Proposals for Educational Promotion Measures for Minorities Envisaged in the XI Plan (2007–12) and the Allocations in the First Year of the Plan (Rs. Crore)

Scheme	Allocation for 2007–08	Outlay for the Total XI Plan Period
Merit-cum-Means Scholarship	54.00	934.50
Pre-Matric Scholarship	80.00	2500.00
Post-Matric Scholarship	100.00	2125.00
Coaching and Allied Scheme	10.00	100.00
Multi-Sectoral Developmental Programme	120.00	3780.00
Maulana Azad Education Foundation	50.00	500.00
National Minorities Development Finance Corporation + Wakf agency	70.00	500.00 1000.00
Grants-in-Aid to SCA	10.00	250.00
Research and Publicity	6.00	35.00
Total	500.00	11724.50

Let us examine the crucial post-matric scholarship to promote higher education among the minorities. 57,112 post-matric scholarships for minority students were awarded in 2007–08 of which 56.80% went to girls and for 2008–09 1,41,447 scholarships were awarded till March 2009 and 55.64% of these went to girls. The target for the five years of the total XI Plan period (2007–15) was 15 lakhs. In the first two years of the Plan only 2 lakh students got these scholarships whereas 6 lakhs should have got it assuming uniform targets for every year in the Plan period.

The pre-matric scholarship scenario was also poor. Though Rs.80 crore was allocated in 2007–08, not a single rupee was spent that year and the scheme became operational in 2008–09 only. Till 17 March 2009, 4,57,794 pre-matric scholarships were awarded out of which 51.11% went to girls. The target for the five years of the Plan period is 25 lakhs for pre-matric scholarships. At the end of the 2nd year of the Plan, only 4.5 lakh scholarships had been distributed and assuming uniform targets for each year of the Plan period in these two years 10 lakh scholarships should have been distributed.

For the most crucial Merit-and-Means Scholarship catering to the students of professional courses, the original target itself was a meagre 20,000 minority students per year only despite these being the most sought-after courses by students.

The record of the Special Coaching and Allied Scheme was ridiculous – in 2006–07 690 candidates, and in 2007–08 4147 candidates and in 2008–09 7644 students were coached for competitive exams in 24 States and Union Territories. These figures of assisted students include SC-ST and OBC students also as this scheme covers all these sections. To get an idea of how paltry these figures are, it can be recalled that more than 6 lakh students appear for EAMCET (Engineering, Agriculture and Medicine Common Entrance Test) exams for professional courses in the State of Andhra Pradesh alone. It is a puzzle why the bureaucracy excels in running such meaningless schemes!

The scholarship programmes for minority community students are not new. They have existed since 1983 as token programmes. The UPA Government announced the New Enhanced Scholarship Programme in 2006, which came into effect in 2007–08 (and some in 2008–09) only when the general elections were approaching. The earlier tokenism turned into New Tokenism! Half-tokenism rather, going by the comparison of pronouncements and actual record!

Of course, looked at from the angle of a poor student who cannot afford higher education, the six-fold increase in the number of scholarships to minority students during the UPA regime is significant indeed compared to the earlier NDA regime but it still remains a piffle compared to the actual requirements and the educational gap detailed in the chapter on discrimination. Why not make every aspiring eligible student from minority communities entitled for such scholarships? Why fix targets and quotas when there is a risk of loss for entire generations? Even if the total expenditure on this count of ensuring education for all at all levels for minorities and oppressed caste groups increases four-fold due to this, it can be met by sacrificing Commonwealth Games or by cutting tax waivers to the corporate by 5%.

The (new) tokenism is not limited to the scholarship programmes alone. The Multi-Sectoral Development Programme, professedly to overcome the “development deficit” on 90 minority concentration districts was announced with a bang and Rs.3780 crore expenditure on this programme was planned for this programme in the XI Plan. But in the first year, this programme got a paltry amount of Rs.120 crore only – Rs.1.3 crore for “accelerated infrastructural development” in each district!

4.6.3 RBI guidelines on greater credit flow to minorities

The RBI issued a revised circular only on 5 July 2007 to the public sector banks directing them to earmark 15% of the priority sector loans to minorities and by the end of 2008 the credit to minorities has not crossed 10%. There can never be a situation where there will be no takers for loans even if the banks come forward to offer loans to minorities. Still, for some inexplicable reason, despite circular after circular from the RBI, the banks have not been able to meet the target.

4.7 Some Corrective Measures

From a short review of the ongoing government measures and recommendations of various committees appointed by the government, we get a picture that there is no dearth of schemes and proposals for the welfare and development of minorities. We have no intention to add a longer list of additional measures in favour of minorities. But here we would like to list a few corrective measures only to overcome the weaknesses of existing promotional measures of the government and suggest some ways for the democratic and minorities rights movement to ensure more effective intervention in the long-term struggle against discrimination.

Despite the appreciable professed thrust on minority programmes in recent years, we can see that the main shortcoming of these programmes/schemes is their tokenism. The political leadership feels the need for special measures in favour of minorities to improve their conditions, the bureaucracy and its “expert committees” often identify the thrust areas and felt needs of the minorities correctly but the schemes launched like the scholarship schemes or IAY allocations for minority households fall much short of the requirement, or proposals for ITIs/polytechnics and for girls hostels, self-employment loans or wage employment assistance remain at the tokenist level. It is as if the objective itself is to sanction these facilities to 5–10% and generate expectations and hope among the remaining 90–95% so that 100% vote benefits can be reaped with 5% investment!

There are no time-bound plans for universal coverage and even the most essential child nutrition, maternal health, primary education and girls’ hostel requirements cannot be universalised in a time-bound manner. Such is the pathetic condition of our welfare state where welfare is not a legal entitlement but only political sop and this precisely is the scenario in which discrimination thrives. Can there not be universalisation and unlimited funds for time-bound implementation in case of few select vital basic needs, especially relating to health and education?

Second is the question of delivery mechanism. Often, the onus of delivering the goodies falls on the same errant bureaucracy which has no accountability or checks and balances. For Scheduled Areas there is a tribal sub-plan where 30% of the Central Funds for centrally sponsored schemes are to be earmarked for tribals only. Why not a similar minority sub-plan for minority concentration areas and minority households? Likewise, for tribal areas a separate delivery mechanism independent of state bureaucracies like the Integrated Tribal Development Authority – headed by an Indian Administrative Service (IAS) official in each

scheduled tribal area – has delivered better results. Why not a similar Integrated Minority Development Authority for minority concentration areas?

Why not some legal provisions for penalties for some bureaucrats responsible for wilful dereliction of duty or neglect due to bias?

Why not a special audit cell under the Comptroller and Auditor General of India (CAG) to audit minority programmes and spending? Why not an institutionalized mechanism to guarantee participation of the community in social audit, like some states such as Andhra Pradesh have experimented with regard to the NREGA programme?

While many of the schemes for minorities are common in nature and applicable to all poor people and underdeveloped areas, earmarking a certain percentage, supposedly in proportion to their population, in common schemes – in other words, ensuring what is due to them – is passed off as a “special measure” in favour of minorities. But when all the official data show that religious minorities and oppressed caste groups lag behind the majority community in many developmental parameters, ensuring equitable distribution of welfare and developmental benefits might prevent further widening of the gap. However, in order to bridge or narrow down the existing gap some exclusive measures for minorities are necessary.

The Finance Commission should make it mandatory to earmark a certain percentage of funds for exclusive minority schemes.

A major hurdle for timely redressal measures and even overall policy thrusts is the shortage of necessary data on the conditions of minorities. The Census data questionnaire as well as the NSSO surveys and other socio-economic data collection and compilation through Central Statistical Organisation, Labour Bureau, Agricultural Census, and other bodies involved in collecting educational/employment statistics etc., should overhaul their data collection methods so that a comprehensive and latest picture of the relative position of the minorities can be ascertained accurately. The policies and practical measures of the governments should be guided by these findings.

As for the democratic movement is concerned – the general democratic movement as well as the struggling organisations of minorities and oppressed caste groups – the foremost challenge is to strengthen the unity among all minorities and oppressed social groups. Inter-faith solidarity campaigns, working relations with democratic organisations and movements, inter-faith dialogue, emergency action/intervention networks to respond to crisis situations like major communal riots and carnages, close monitoring of the nefarious activities of the anti-minority saffron outfits, legal help bodies, relief and rehabilitation volunteer bodies, own self-organisation and self-help groups of the minorities themselves to overcome glaring inequalities within their own communities themselves and so on are some of the areas where organisation and activism need to be strengthened. Exclusive dependence on the State will never bring down discrimination substantially but only a vigilant and active movement of the minorities in tandem with the general democratic movement can.

PAKISTAN

1. General Overview

*“You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any **religion** creed that **has nothing to do with the business of the State.** ...”*

*We are starting in the days where there is no discrimination, no distinction between one community and another, **no discrimination** between one caste or creed and another. We are starting with this fundamental principle that **we are all citizens and equal citizens of one State.***

*Now I think we should keep that in front of us as our ideal and you will find that in course of time **Hindus would cease to be Hindus and Muslims would cease to be Muslims**, not in the religious sense, because that is the personal faith of each individual, but in **the political sense as citizens of the State.**”¹*

Pakistan came into being premised on the two-nation theory. Religion was the force leading to the division of the subcontinent. Muslims abandoned their idea of federalism because they were unable to freely practice their religion in India and suffered unendurable discrimination because of the faith they professed.

Time has, however, proved to show the same religious intolerance in Pakistani Muslims that defined a separate homeland for them in the first place. The minorities, women and children living in Pakistan have persistently been the victims of religious bias and have never been considered “equal citizens of one State” as envisaged by Mohammad Ali Jinnah. Religion has been a tool in the hands of the majority (or those in power) to achieve their political and social goals while the weak in terms of strength or number have been constantly suppressed and victimized.

The white colour of the Pakistani flag represents and acknowledges the existence of minorities in the country. However, the minorities are systematically excluded from the real issues of the country and have been narrowed down to merely the white strip of the national flag. A

¹ Presidential address by Mr. Mohamed Ali Jinnah (1st President of Pakistan) to the Constituent Assembly of Pakistan August 11, 1947

form of religious apartheid has been underway in Pakistan ever since its formation 60 years ago. Society is fraught with problems as the majority religious communities try to mould the cultural, social and state institutions according to a specific belief system.

Subjugation of women has also marred Pakistani society and religion has been used to suppress women in all fields of life. Mostly women and children have fallen prey to the recent resumption of *talibanization*² in the northern areas of Pakistan. Even though Islam has accorded a highly venerated social position to women, gender-based rights in the Pakistani tilt heavily in favor of men.

This study will focus on the current state of the various religious minorities living in the heterogeneous state of Pakistan. Christians, Hindus, Ahmedis and Sikhs form the greater part of the multi-religious identity of Pakistan, and have suffered deep-rooted discrimination in Pakistan in sharp contradiction to Jinnah's vision at the time Pakistan was created. The study will cover the various factors that have increased the polarization of the minorities at a societal level and how state policies and laws have augmented the unequal treatment of the minorities and increased hatred towards them. The study will also proceed to address the issues facing women in the country and the limitations placed on them in the name of religion. The status of women will be highlighted in view of the recent revival of Taliban insurgencies in the northern parts of Pakistan.

The study will help understand the possible reasons for the rampant use of religion as a dangerous weapon against women and minorities. It will focus on how those who are in power have manipulated these groups in the name of religion to attain their own objectives and promote hatred and violence by using education, media and judiciary as means to their vicious ends.

The last part of the study will trace the background that has led to internal conflict in the SWAT³ area of Pakistan and how militancy and violence based on religion has gained impetus due to the failed policies of the state.

1.1 Definition of 'Majority'

For the purpose of this study, majority refers to those groups of persons who hold superiority in Pakistan in terms of strength, number or religious belief. In regard to religious beliefs, Muslims form more than half of the population of Pakistan. In terms of strength, the state or the government and the male members of the society hold maximum power in the country. In terms of numbers, again the Muslim population is the largest.

² Talibanization refers to the effect of the Islamic political movement initiated by Sunni Muslims in Southern Afghanistan. The Taliban (members of the movement) effectively ruled most of Afghanistan from 1996 to 2001. This movement started in response to the political chaos after the overthrow of the Soviet occupation forces from Afghanistan in 1986.

³ Swat is a valley and an administrative district in the Khyber-Pakhtunkhwa Province of Pakistan located 160 km/100 miles from Islamabad, the capital of Pakistan.

1.2 North Western Frontier Province (NWFP) and Federally Administered Tribal Areas (FATA) -- Hub of Religious Atrocities in Pakistan

Re-emergence of the Taliban

Much of the religious extremism in Pakistan has taken birth in the NWFP⁴ and FATA⁵. Taliban fighters are recruited and trained in the tribal areas of Baluchistan and NWFP where the central government has little influence.

The five-year MMA⁶ rule (2003-2008) in NWFP allowed the Taliban to flourish and expand their writ in the province and FATA with their pro-Taliban policies. Since taking control of the province, the ruling Islamic alliance banned music on public transport, medical examinations of women by male doctors, male coaches for women athletes and male journalists from covering women in sports. Music shops were attacked and many female artists were forced to give up their profession. Their actions decreased public space for women as MMA activists broke down advertisement boards with photos of women and consequently visibility of women in public during the time declined notably. Women were stopped from seeking employment, or moving around without a *mahram*⁷. Women and religious minority participation in public was not encouraged.

Religious militias during this period also grew in strength⁸, the impact of which can be seen today as the Taliban have once again gained power. Religious minorities, particularly in FATA, have been adversely affected by the rise of the Taliban and demands for *Jazia*⁹ have forced many to flee the tribal areas. The Taliban, wherever they manage to get a foothold, follow a legal regime that results in the denunciation of religious minorities, women and children. According to some estimates, over 62,000 children have been left without schools due to the negative perception of the Taliban towards education. *Hudd*¹⁰ punishments such as public flogging have also commonly been exercised under the Taliban control. Sources have assured that the recent video revealed showing the flogging of 17 year-old girl was not a sham¹¹ as claimed by the Taliban leaders.

⁴ NWFP is one of the four provinces of Pakistan, located in northern Pakistan.

⁵ The Federally Administered Tribal Area is strategically located between the Pakistan-Afghanistan border and the settled areas of NWFP. For more see <www.fata.gov.pk>

⁶ Muttahida Majlis-e-Amal is the oldest religious political party in Pakistan.

⁷ In Islamic Sharia legal terminology a mahram is an unmarried kin with whom sexual intercourse would be considered incestuous, a punishable taboo. Current usage of the term covers a wider range of people and mostly deals with the dress code practice of hijab

⁸ For example, Mangla Afridi Bagh, leader of Lashkar-e-Islami (religious group) in the Khyber Agency. Mangal Bagh's activities in and around Peshawar increased the atrocities against Christians and Ahmedis.

⁹ A tax imposed on non Muslims living in Muslim States

¹⁰ Hudood (restriction) is the word often used in Islamic literature for the bounds of acceptable behaviour and the punishments for serious crimes. In Islamic law or Sharia, hudud usually refers to the class of punishments that are fixed for certain crimes that are considered to be "claims of God". They include theft, fornication, consumption of alcohol, and apostasy.

¹¹ This fact has been confirmed by Mr. Kamran Arif (Human Rights Activist and Lawyer based in Mansehra, NWFP)

The Taliban have also frequently used children as weapons in carrying out mass killings (several instances recorded on video) as most of the suicide bombers are children. “*I would go to the extent of saying that the child used as a suicide bomber is actually the first victim of the terrorists*”, says Kamran Arif, a lawyer and human rights activist based in NWFP. Taliban forces in many places have conscripted children as young as 14 years to fight their battles.

2. Religious Minorities

In the current political framework of the country, there seems to be no place for minorities. Ever since the inclusion of Objectives Resolution in the Constitution of Pakistan, minorities have been sidelined in the political and social structure. At the time of the partition of the subcontinent, minorities formed 30% of the total population of the newly-formed state, however, today this number has drastically reduced to a mere 3%¹². Due to societal pressures, a majority of the religious factions have left the country, leaving behind their social and cultural norms in search of a better standard of living.

Due to political and social pressures, most are afraid to declare themselves as non-Muslims. As a result, the true number of minorities living in the country is not reflected in the national census.

The public sector manifests a strong bias against non-Muslims, as there are only a handful of non-Muslim government employees. Pakistan International Airlines (PIA), the armed forces, superior civil services and judiciary are especially those areas where the non-Muslims are seldom employed. There was previously a 6% quota reserved in government services for the Hindu scheduled castes and the law provided a three-year age relaxation in their jobs and admissions; but this law was repealed in 1998 during the regime of Mian Nawaz Sharif, a civilian Prime Minister¹³. However, the scheduled caste representatives find no difference in the era when they had a quota and when they did not as it had never been implemented even when it was in place. More recently, the NWFP Parliament passed a resolution in which 0.6% quota was allocated for the jobs of non-Muslims¹⁴, a preposterously low percentage, which did not improve the situation much. These volatile policies are reflective of how the religious preferences of state actors are adversely affecting the basic human rights of the minorities. Recruitment of minorities based on credentials as opposed to their belief systems is almost extinct in Pakistan.

Religious extremism and radicalism is often state-sponsored in Pakistan and its constitution and laws are overwhelmingly preferential to Islam. The US Commission on International

¹² This statistics were conveyed to the author in an interview with Peter Jacob (Head, National Commission of Justice and Peace)

¹³ ‘*The Choice of Reforms: The human rights situation of ethnic, linguistic, religious minorities, scheduled castes Hindus and indigenous people in Pakistan*’ (Joint NGO report to the UN Committee on the Elimination of Racial Discrimination (CERD) for the examination of the 15th-20th periodic reports of Pakistan at the 74th CERD session in February 2009) <http://www2.ohchr.org/english/bodies/cerd/docs/ngo/Alternative_report_TRDP_NCJP_PILER_IDS_N_Justice_and_Peace_Netherlands.pdf>

¹⁴ Ibid.

Religious Freedom¹⁵ has named Pakistan as one of the thirteen countries where state supports condemnation and discrimination of religious minorities especially in light of the ongoing religiously-motivated violence that targets Shi'a Muslims¹⁶, Ahmedis, Christians, Hindus and Sikhs. It states that the year 2009 "has seen the largely unchecked growth in the power and reach of religiously-motivated extremist groups whose members are engaged in violence in Pakistan and abroad, with Pakistani authorities ceding effective control to armed insurgents espousing a radical Islam ideology". Similarly Minority Rights Group International (MRGI), in its annual 'State of the World's Minorities' reports for both 2007 and 2008, has included Pakistan amongst the top ten violators of minority rights amongst a list of 200 countries. One of the main arguments given in support of this finding is that the importance of Pakistan in the "war on terrorism" has led western countries, particularly the United States, to lessen pressure on Pakistan for the development of the minorities, because of which the Pakistani state has largely ignored the minorities.

The demand for greater rights by the minorities has never been well-received by the state or the extremist groups, often leading to violence-ridden repercussions for them. The All Pakistan Minority Alliance (APMA) on August 11, 2007 organized a historic mass rally to demand more religious freedom in the country. In a 30-point Charter of Demands to the government, the APMA called for adequate political representation of minorities in national and provincial legislatures, and the removing of all laws that discriminate against religious minorities. The charter made special references to anti-blasphemy and Hudood laws, which put Pakistan's non-Muslim minorities under threat simply for asserting their religion. The charter demands were completely unheeded by the state. Just weeks after the charter was presented to the government, the media reported that a Christian Bishop Arif Khan and his wife were murdered in Islamabad. In the same month of August, websites promoting religious freedom and Christian news websites reported that Christians in Peshawar, the capital of the NWFP, were asked to convert to Islam or face death. Additionally, seven churches and five Christian settlements received threatening letters¹⁷.

Former Pakistan Sikh Gurdwara Parbhandak Committee President Sardar Bishan Singh has been reported to have said, "*Religious minorities feel isolated because the political system has not matured enough to maintain a secular stance for representation in the legislature, irrespective of caste, colour or creed.*"¹⁸

¹⁵ Annual Report, 2009

¹⁶ Shias Muslims are the second largest sect of Islam after *Sunni* Muslims. The basic difference in the two sects is the fact that Shias believe Hazrat Ali, Prophet Muhammad's cousin and son-in-law, was the rightful successor to Muhammad and thus reject the legitimacy of the first three caliphs as believed the Sunnis.

¹⁷ 'State of World's Minorities 2008' a report by Minority Rights Group International

¹⁸ Daily Times 'Minorities being denied Senate Seat' (February 9, 2009)
<http://www.dailytimes.com.pk/default.asp?page=20090209\story_9-2-2009_pg7_19 >

Table 1: Population by Religion (based on the 1998 Census)

Communities	Punjab	Sindh	NWFP	Balochistan	Total	
Christians	1,699,843	294,885	36,668	26,462	2,057,858	42%
Hindus/Schedule Caste	116,410	2,280,842	5,090	39,146	2,441,488	50%
Ahmedis/Qadianis	181,428	43,524	42,150	9,800	276,902	6%
Others	48,779	23,828	14,726	6,471	93,804	2%
Total	2,046,460	2,643,079	98,634	81,879	4,870,052	

Source: Minority Affairs Division, Government of Pakistan

http://www.statpak.gov.pk/depts/pco/statistics/other_tables/pop_by_religion.pdf

2.1 State of Minorities

Hindus

Hindus are mostly concentrated in the south-eastern province of Sindh in Pakistan. Most middle and upper class Pakistani Hindus migrated to India after the 1947 partition of the subcontinent and those that remained were mostly rural and poor. Due to a serious dearth of resources to organize them politically, economically and socially, Hindus have largely remained politically and economically marginalized in Pakistan. Today, Hindus form the largest religious minority in Pakistan albeit with the least rights.

95 to 98% of the Hindus living in Pakistan belong to the scheduled castes, often known as the 'untouchables'. This is the lowest level in the elaborately constructed Indian class system. Despite no recognition of such a class system in Pakistan, these Hindus have minimal state and societal protection. They are the real victims of discrimination. They have to struggle for the basic amenities of life. They live in deplorable conditions with no opportunities to improve their way of living. Their religion has become a shackle for their progress.

The government or the wealthier Hindus provide them with little or no support. Their only chance of survival is to take up substandard and unskilled jobs (e.g. sweepers, trash-collectors etc.). Government has not devised a mechanism to ensure their sustainability. In fact, the housing provided for them by the government is forcibly taken over by the more influential members of the society but the state remains oblivious to this transgression. Most Hindus wish to migrate to other countries in order to escape seclusion but no country is willing to provide them refuge, as they possess no special skill or qualification.

The remaining 2 to 5% of the Hindus are financially content, as they are owners of lands or stable businesses¹⁹. Due to their financial power, they can afford good quality education and health services and hence do not require any government support. Unfortunately, these

¹⁹ This information was given to the author during an interview with Karachi-based Amarnath Motumal, President of the Hindu Panchayat Commission and Council member of the Human Rights Commission of Pakistan.

Hindus have failed to reach out to the poorer Hindus perhaps because of the barriers created by their caste system. Even the Indian government and Indian Hindus have provided them no more than rhetorical support, by occasionally lambasting the discrimination in Pakistan against Hindus.

Another dilemma facing the Hindus in this country pertains to the disclosure of their identity. Most Hindus are extremely reluctant to reveal their religion to others since the word “Hindu” has been severely condemned in the country. Their identity is defined more by the dominant Muslim culture than their own self-assertions. During an interview with Amarnath Motumal, President of the Hindu Panchayat Commission, he said with much regret, *“the word Hindu has become a mark of shame in this society. Ask any Hindu what religion he belongs, he will say he is non-Muslim. And when you ask him again ‘what does that mean? are you Hindu?’ he will reply merely by nodding his head, such is the stigma attached with this word”*

A sense of insecurity constantly looms over the heads of the Hindus making their social survival dreadfully hard. Hinduism imposes a certain code of conduct for its followers, which most Hindus of Pakistan are unable to adhere to out of fear. For example, Hindu men are not allowed to grow a lock of hair on the head as part of a religious practice, clearly an act of bullying by the Islamic extremists.

Christians

The second largest religious minority in Pakistan comprises of the Christians. Christians hold a much stronger position in Pakistan as opposed to Hindus as they have persistently raised voices for the promotion and protection of their rights and of other religious communities. According to the Pakistan population census 2,057,858 Christians live in Pakistan, the majority in the province of Punjab, split almost equally between Protestants and Catholics. However, many Christian sources estimate the Christian community in Pakistan to be at least twice this figure; for example, Pakistan Christian Congress²⁰ claims the existence of 15 million Christians in Pakistan.

While facing lesser persecution as compared to Hindus and Ahmedis, Christians are far from being immune to religious intolerance in all fields of life. The Christian community often bears the brunt of Muslim frustrations with western policy or with events that take place in the west which are seen to be anti-Islamic such as the publication of the Danish Cartoon²¹ and the 9/11²² attacks. The UN’s Commission for Human Rights and Amnesty International figures for 2000-2007 suggest that between 30 and 50 Christians are subjected to violent killing in Pakistan each year. In addition, many Christians are falsely imprisoned and thousands become

²⁰ <www.pakistanchristiancongress.org>

²¹ On September 30, 2005, a Danish newspaper published twelve blasphemous cartoons of Prophet Muhammad, which triggered off a much heated public controversy, enraging Muslims all over the world.

²² On September 11, 2001 the World Trade Centre Towers in New York, USA were destroyed by terrorist attacks, when two hijacked airplanes hit the buildings, setting them afire and causing them to crumble and fall.

victims to serious physical abuse, exploitation and threat at the hands of both the majority Muslim communities and at the hands of elements of the state and local authorities²³.

A Pakistani Christian NGO CLAAS²⁴, summed up the overall situation of Christians in Pakistan in the following words and today, seven years from then, the situation remains the largely the same, if not worse:

“Christians in Pakistan are living under constant fear, uncertainty and with a great pain of marginalization in their own land. They are being persecuted and discriminated against constitutionally, socially, culturally, and economically ... Constitutional and legal issues [are] linked to the negative attitudes of government, police, judiciary, and [the] local majority of Muslims towards Christians and other minority groups. Such groups are seen as inconvenient to Islamic rule rather than as full citizens offering enhancement of public life. Police and local Muslims are torturing Christians; false cases are made against Christians under discriminatory laws. Churches are being desecrated and land is being taken from Christians who are then driven into forced labor. Christian women and children are being abducted, raped and forcibly converted to Islam and minors are sent to Kashmir for jihad”.

Ahmedis

Ahmedis (also known as Qadianies) are followers of Mirza Ghulam Ahmed. Due to the major differences in their beliefs from other Muslims, they were dismembered from Islam in 1974 in Pakistan instead of qualifying as another bifurcation of the same religion. By accepting Mirza Ghulam Ahmed as a prophet, they reject Prophet Muhammad as the final prophet, which is one of the fundamental beliefs of all Muslims. Furthermore, by accepting Ahmedia teachings, they reject the concept of *jihad* or holy war. They have also shown resistance to the politicization of Islam and, therefore, to the concept of an Islamic state which is the basis of the creation of Pakistan.

Even though agitation against this group had been taking place since 1954, the declaration of *Ahmedis* as non-Muslim²⁵ in 1984 opened a floodgate of atrocities against them.

²³ Shaun Gregory, *“The Christian Minority in Pakistan: Issues and Options”* University of Bradford (UK) Pakistan Security Unit Brief No. 37, July 17, 2008. <<http://spaces.brad.ac.uk:8080/download/attachments/748/brief+37.pdf>>

²⁴ Centre for Legal Aid, Assistance and Settlement (CLAAS) is an interdenominational organization working for Christians who are being persecuted because of their faith in Pakistan. <<http://www.claas.org.uk/about-us.aspx>>

²⁵ Ahmedis were declared non-Muslims under the Second Amendment to the Constitution of 1973. In 1984 General Zia-ul-Haq promulgated Martial Law Ordinance XX branding the Ahmedis as criminals liable to fine and imprisonment if they practiced their belief in Islam, used Islamic terms or posed as Muslims. The punishment is up to 3 year in jail and a fine.

Sikhs

Sikhism is another religion that forms a small part of the multi-religious identity of Pakistan. According to the International Religious Freedom Report 2007 by the US Department of State there are approximately 20,000 Sikhs in Pakistan. An exodus of Sikhs took place from Afghanistan into Pakistan in 2006 after the US war in Afghanistan. They suffered great persecution at the hands of the Afghanistan-based Taliban and were forced to abide by Islamic regulations. However, many Sikhs have again become victims of *talibanization* due to recent reactivation of Taliban atrocities in the northern areas of Pakistan.

2.2 Places of Worship

Places of worship have been the prime target of the inter-religious conflict in Pakistan. There are innumerable incidents of churches, temples, *gurdwaras* and other places of worship of religious communities being demolished in Pakistan as an expression of the inherent intolerance present in many Muslim extremists. In recent years, inter-religious conflicts have even made mosques vulnerable to extremist attacks, more so after the use of armed action to curtail Taliban insurgencies in northern Pakistan.

Pakistanis have been repeatedly murdered at the hands of extremists while engaging in religious worship. The level of state protection and security of places of worship, often including mosques, is negligible even though such atrocities take place on a yearly basis. On several occasions, temples have been torn down only to be replaced by commercial buildings. There have also been incidents where public washrooms have been built in place of the demolished worship places of minorities or land mafias have illegally occupied those pieces of land.

The State has failed to devise policies to deter the perpetrators and secure places of worship. In fact the State itself has become the biggest violator of the right to freedom of religion since they fail to take notice of the repeated attacks and desecration of worship places. The administration of Sahiwal²⁶ in May 2004 refused to allow Christians to hold their annual prayer meeting despite the fact that permission had already been granted by the District Police Officer. The meeting was ordered to be cancelled a short while before it was scheduled to commence, perhaps to cause maximum inconvenience to the attendees. More recently in October 2008, a church was demolished and the Bible desecrated in an attempt to illegally occupy the land. This incident unfolded before the police and district administration but they remained silent spectators despite being under a legal and social duty to intervene in the matter.

²⁶ Sahiwal is a small city in the province of Punjab, Pakistan.

Hindu Temples

Temples and Hindu religious scripture recurrently face violent actions of enraged Muslim extremists. Following the partition of the subcontinent, Pakistani Muslims destroyed several famous temples that fell within the boundaries of Pakistan. A notable incident was the destruction of the Ramna Kali Mandir in former East Pakistan by the Pakistan Army in 1971. Similarly, the Dhakeshwari Temple was also severely damaged during the Indo-Pakistani War of 1971. Almost half of the temple was destroyed and the main worship hall was taken over by the Pakistan Army and used as an ammunition storage area. Several of the temple custodians were tortured and killed by the army though most, including the head priest, escaped to their ancestral villages initially and then later to India. In 1992 alone, hundreds of Hindu temples were destroyed in Pakistan in response to communal riots in India, in which Pakistani Hindus played no role. Despite state promises to restore these temples, in many cases little or no action has been taken to fulfil the promises until now.

Temples have come under attack even during riots against other religious minorities. For example in June 2005, a group of Muslims, infuriated by an alleged incident where a local Christian had burnt pages of the Quran, set a Hindu temple on fire in Nowshera, NWFP.

Temples also fall prey to the activities of land grabbers and illegal encroachments. Periodically, land mafias in Pakistan have taken over temples without the consent of the rightful owners. In July 2005, the Human Rights Commission of Pakistan (HRCP) received a complaint that a land mafia was trying to sell the property of a Hindu temple in Lahore city. After the HRCP intervened in the matter, these attempts stopped but no steps were taken by the State to curtail such acts in the future. In October 2007, Shiv temple in Lyari town, Karachi and the adjoining compound was seized and illegally occupied by a self-proclaimed cleric. A small room within the temple was allocated as the worshipping place for Hindus where no more than two Hindus could pray at one time. Pictures of the Hindu deities were also erased from the temple walls. As a major act of disrespect, the cleric used the temple place as a slaughterhouse, butchering cows in particular to hurt Hindu sentiments to the utmost. The authorities took no action to restore the sanctity of the temple or assist in rehabilitating the Hindus who lived in the compound or order the cleric, who was no more than a land grabber, to vacate the temple and the compound.

Although the government has established a body called the Evacuee Property Trust Board (EPTB) to maintain the properties of the minorities, this body has proved to be nothing more than a puppet in the hands of Muslims. In 2006, the only Hindu temple in Lahore was demolished to pave the way for the construction of a shopping centre. The Chairman of EPTB sanctioned the building of the commercial plaza since the Board omitted to inform him that this land was previously occupied by a temple. This was a clear violation of the EPTB's own rules '*The EPTB Scheme for Management and Disposal of Urban Evacuee Trust Properties, 1977*', which categorically prohibit the '*sale or demolition of an evacuee trust property that is part of appurtenance to a shrine, a religious place or a building of historical or architectural importance*'. Even though this demolition was strongly opposed by the leading parties in the National

Assembly in view of it having a direct repercussion on Pakistan's relations with India, it could not be stopped.

Churches

Over the years, numerous churches have been attacked and hundreds of Christians have lost their lives while performing their religious duties in churches. Car bombs, hand grenades, homemade bombs, explosive bottles containing chemicals are some of the types of illegal weapons used to sabotage the places of worship of minorities. A few years ago, the local Muslim clerics declared that a church could not be constructed within a very close proximity of a mosque. It must be noted that no by-laws or land/property legislation in Pakistan imposes such a restriction, but the State fails to take actions against those who oppose such constructions merely based on their religious beliefs. In 2005, *madrassah* students trampled an under-construction church after a local prayer leader contested the building of the church on the grounds that it was being erected within 100 metres of a mosque. Similarly, a court order was sought by some students to stop the reconstruction of a church in Peshawar University in January 2007. This was an unreasonable demand especially since this was the only church catering to 1500 Christians residing on the campus. The Chief Justice of Peshawar High Court appeared to have realized the irrationality of the demand and Stated, "*construction of a church was not in violation of the fundamentals of Islam and Islam provides full freedom to minorities to build worship places to practice their religion*".

Incidents taking place in the West that are offensive to Islam have a direct repercussion in Pakistan as the atrocities against the religious minorities by extremists pick momentum, especially targeting their places of worship. The Danish cartoons that mocked Prophet Muhammad (pbuh)²⁷ caused a huge uproar in the Muslim community worldwide and violent reactions took place in Pakistan. Two churches were demolished by an angry mob at the height of the demonstrations and five further attacks on churches were reported during the period of anti-cartoon rioting. Such criminal behavior is tacitly sanctioned by the State when they fail to take appropriate action. Innocent people are held responsible for iniquitous acts of others only because they share a common faith with the real offenders.

Even jails are not free from religious discrimination. According to a jail visit report²⁸ of Adiala Jail²⁹ by the AGHS Legal Aid Cell³⁰, Muslim prisoners were allowed to regularly visit the mosque for worship but the Christians prisoners were prevented from going to the church and their church had been temporarily shut down. An overwhelming Islamic influence was also observed in this jail such as the use of Quran references on the prison walls and easy access for clerics within the jail premises who brainwash the vulnerable groups in the jail, particularly

²⁷ PBUH means 'Peace Be Upon Him' which is usually written after the name of the Prophet Muhammad.

²⁸ Year 2007

²⁹ Adiala Jail is one of the biggest jails in Pakistan located in the city of Rawalpindi.

³⁰ AGHS Legal Aid Cell is the first legal aid organization established in the country, operating since 1980. The major focus of the organization is the rights of women, children and minorities in Pakistan.

non-Muslims and children. These factors contribute to the infiltration of the terrorist and fanatical mindset among the prisoners especially children and erosion of the reformatory character of prisons.

In the aftermath of the 9/11 attacks, two incidents caught the attention of the international community as they highlighted the mistreatment of Christians within Pakistan. One such incident was where 16 Christians were shot and killed, including six children, and two wounded by gunmen during worship at St Dominic's church in Bahawalpur in October 2001 and another similar incident was a grenade attack on a Protestant church in Islamabad in March 2002, which killed five persons including a U.S. Embassy employee and her daughter.

The growth of *talibanization* has also put churches under immense danger. The Taliban issued letters to priests in September 2007 threatening them with suicide attacks if churches were not closed down within a prescribed time limit.

Ahmedi Mosques

Persecution of Ahmedi places of worship have been largely condoned by the State with the enactment of anti-Ahmedi laws (discussed in greater detail in section 2.6). These specific laws bar them from referring to their places of worship as mosques, worshipping in non-Ahmedi mosques or public prayer rooms or openly reciting and quoting the Quran. Such laws allow anti-Ahmedi sentiments to be whipped up even on trivial issues, as the persecutors in most cases believe the law legally sanctions their reactions.

In addition, the status given to the Ahmedis in Pakistan as non-Muslims prohibits them from taking part in the annual Muslim pilgrimage to Mecca in Saudi Arabia since only Muslims are allowed to enter the city.

In early October 2005, an Ahmedi mosque was attacked, located in a village named Mong near Mandi Bahauddin, when four gunmen entered the mosque on motorcycles and opened indiscriminate fire on those present within the premises of the mosque. This brutal attack seemed to stem out of the general religious intolerance prevailing in the country. It caused the death of eight Ahmedis and injured 18. In the following year, five Ahmedi mosques were destroyed. More recently, in February 2009, an Ahmedi mosque was targeted when an unidentified miscreant hurled a grenade in the centre of the mosque. At the time of the attack, there were only a few people present in the mosque as it was not one of the regular prayer times and hence only one person was injured. Similar attacks in the past have resulted in the death of and injuries to many. This recent attack is evidence of the fact that the air of religious intolerance continues.

Sikh Gurdwaras

Pakistan holds a unique position for the Sikh community since Guru Nanak Dev (the founder of Sikhism) was born in Nankana, a small town in Pakistan. A large number of Sikh pilgrims visit the country every year but the government has made no effort to make the area more tourist-friendly and facilitate the stay of hundreds of pilgrims. The area remains underdeveloped and downtrodden. The residents of the area are mostly poor, who derive no economic benefit from the annual influx of hundreds of pilgrims.

There are various Sikh holy places and *gurdwaras* (Sikh place of worship) across Punjab. Regretfully, none of these holy places is safe from extremist elements and suffers frequent attacks from orthodox Muslims. In September 2004, a violent mob attacked the famous gurdwara in Nankana Sahib, which also encompassed the Guru Nanak College within its premises. The attack was triggered off by the news that the college was being shut down and the land was being returned to the EPTB to accommodate Sikh pilgrims. Following the attack, the administration ensured that the college would not be permanently closed and would be transferred to another place. It is hard to understand why such an assurance was not given earlier to pacify the mob and avoid damage and why those that had incited such an attack had not been penalized by the authorities. This attack is just another display of religious hatred inherent in Muslims against other minority religions in Pakistan, in this case against the Sikhs.

In 2008, a Sikh temple in Lahore was forcibly taken over by a group of Muslims who claimed that it was their property. This particular temple was open to Muslims also as it was a burial place of a Muslim Saint and Muslims frequently visited to pay their respects to him. The group refused to allow Sikhs to enter the temple and began using it as a mosque. The Sikhs appealed to the ETPB but they did not take any action in this regard.

2.3 Freedom of Expression

Every religion demands respect for its beliefs and symbols as its fundamental and justified right. The right to freedom of religion and freedom of expression tends to create conflicts in multi-religious societies especially where legislation tilts in favor of a specific belief system such as in Pakistan. Pakistan is a democratic society and freedom of expression is the bedrock of any democratic society. Unfortunately, freedom of expression of religious minorities has been brutally curtailed in the country with the enactment of blasphemy laws. In a letter, Bishop John Joseph³¹ referred to the blasphemy laws as the biggest obstacle in the way of inter-faith relations in Pakistan. According to the report by U.S. Commission on International Religious Freedom (2009), blasphemy laws of Pakistan “*limit seriously and criminalize the rights to freedom of religion and expression of individuals worldwide.*”

³¹ Bishop John Joseph, from Faisalabad, Pakistan, took his own life in 1998 before the Sahiwal Session Court, to call the world's attention to Pakistan's blasphemy law. He is remembered as “the voice of the voiceless” and his act is commemorated as “the cry in the wilderness that lifted the veil of silence surrounding extremism.” <www.asianews.it>

Minority religions do not receive the same protection that Islam has been granted under the law. In 1980, the Pakistan Penal Code was amended to include five new sections pertaining to Islam, namely sections 295 A, B and C and 298 B and C (*text of these laws in attached as Annexure b*). These new provisions imposed extremely severe punishments for blasphemers of Islam. Sections 298 B and C are more commonly referred to as the anti-Ahmedi laws.

These sections have been given a very wide interpretation by the courts and without delving into the true intention, many alleged blasphemers have been sentenced to harsh punishments. The number of religious minorities charged under Pakistan's restrictive blasphemy laws continues to mount. Almost 430 non-Muslims have been caught by these sections since 1980³². The vagueness of this section provides an easy trap for those who want to initiate false cases to settle personal vendettas that included property disputes, business rivalries or any minor feuds over trivial issues. Blasphemy laws have been severely criticized over the years by minorities and human rights activists, according to whom they serve no purpose other than provoking discrimination.

These laws have largely endorsed religious intolerance in Pakistan. Hostile and irreverent attitudes towards minorities are accentuated in the presence of laws sanctioning such a way of thinking. Behavior of the law-enforcing agencies evidences how religious discrimination is embedded in the societal structures of the country. One classic example of the abuse of religious freedom was of Samuel Masih, a 27-year-old Christian, who lost his life due to the fanatical mindset of a police official. Samuel Masih was arrested in August 2003 for allegedly throwing trash on the outer wall of a mosque. He was charged under Section 295 of the Pakistan Penal Code, 1890 for defiling a place of worship. He was incarcerated in Lahore District Jail for a few months before being shifted to Mayo Hospital in May 2004 under police custody as he was suffering from tuberculosis. Unfortunately, he died one week later but the cause of his death was not his disease but an injury inflicted on him by the constable assigned to guard him at the hospital. The constable had attacked him with a brick cutter, considering his act a "*religious duty*" and proudly declared that killing a blasphemer would earn him a "*place in heaven*". The constable was, however, charged with murder but he was only one of the many extremist constables who would have done the same.

The severity of these laws was slightly reduced when the Parliament approved an amendment in the administration of anti-blasphemy laws in 2004. Previously if an individual approached the police, accusing someone of blasphemy, the police was required to make an immediate arrest prior to conducting any investigation. However, in October 2004, the law was amended to the effect that now the superintendent of police is required to make an investigation in cases of blasphemy before making an arrest to ensure that the accusations are well founded. This appeared to be a positive step towards avoiding frivolous blasphemy cases being presented in court but statistics show that it has made no difference in reality. In fact, a drastic rise in the number of blasphemy cases was reported in 2005 as shown in the table below.

³² Human Rights Monitor 2008 '*A Report on the Religious Minorities Of Pakistan*', Published by National Commission of Justice and Peace (a non-profit, non-partisan human rights body established by the Pakistan Catholic Bishops Conference since 1985)

Table 2: Persons formally charged under blasphemy law

Year	Number of Victims
2002	71
2003	20
2004	23
2005	107
2006	87
2007	59

Statistics provided by the National Commission of Justice and Peace

One of the worst cases under anti-blasphemy laws was reported in 2005, evidencing the failure of the amendment to bring about any positive change. In April 2005, Ashiq Nabi, resident of villiage Spin Khak, Nowshera, was charged with blasphemy after being accused of allegedly throwing the Quran on the floor during a fight with his wife. Following the charges, a *'fatwa'* was issued against him by a local cleric. His wife was the only witness to the alleged act, who denied any such occurrence. Despite her denying the happening of alleged act, the *'fatwa'* issued against him infuriated the fellow villagers who hunted him down and sled him ruthlessly. The government failed to take any action against the offenders who justified their violent act based on religious teachings. Ashiq Nabi is one of the many people involved in blasphemy cases who do not get the chance to appear before any court of law to prove their innocence and are caught in the whirlpool of irrational religious behaviour.

Another alarming case took place four months later when 40 year-old Younis Sheikh, charged and arrested under blasphemy laws in early 2005, was sentenced to death by the Anti-Terrorism Court, Karachi. He had been accused of writing blasphemous material in his book titled "*Shaitan Maulavi*" (Satanic Cleric). This was a severe disregard to freedom of expression and set a dangerous precedent for the judiciary to follow.

Another dilemma facing those accused with blasphemy is the insufferably long duration of pre-trial detention, usually extending up to several years. The long delays in the trials of blasphemy cases take place predominantly due to the reluctance of the judges to issue decisions or hold regular hearings of the cases in view of the sensitivity of the matter involved. These cases remain pending in the courts as the judges are under immense pressure from the State and religious groups to decide against the blasphemer and they fear their own security or reprisal from extremist elements if they decide otherwise. In one reported case, a religious fanatic murdered a High Court judge because the judge had acquitted a non-Muslim charged with blasphemy. On another occasion in 2004, the Lahore High Court ordered a lower trial court to deliver a verdict against the alleged blasphemer only for the reason that the case had already been awaiting decision for four years. The judge, lawyers and witnesses involved in blasphemy cases are provided minimum security by the State. The legal procedures could perhaps be expedited if the State makes adequate arrangements to safeguard those concerned in the resolution of profanity cases.

The orthodox Muslims also constantly attack Ahmedi religious material under the blasphemy laws. In 2004, the *seraiki*³³ translation of the Quran was banned by the religious parties, demanding that the cases should be registered against the *author, translator, printer* and *publisher* under 295B and 298C of the blasphemy laws. Religious parties also urged for legal action against the Ahmedis since they had changed the meaning of some verses of the Quran and all copies of the Qurans with the translated verses were ordered to be confiscated.

Despite the enormity of religious violence reported every year, triggered by unfair laws and policy, the government has failed to address the root causes of these cases. In fact government's inaction in this regard has encouraged religious zealots to take the law into their own hands or incite others to kill persons accused of blasphemy. Attempts to remove this law from the Pakistan Penal Code have been futile so far. In May 2007, the minority member of Parliament tabled amendments in the blasphemy laws, demanding the punishment for blasphemy to be reduced to a maximum five-year prison sentence and a fine. However, Pakistan's National Assembly overpoweringly rejected these proposed amendments, calling the amendments "*un-Islamic*".

2.4 Role of Media

Media is extensively used in Pakistan to improve inter-state relations and to shape the opinions and ideas of the public at large. It is a powerful instrument in today's age, often referred to as the fourth pillar of the State. However, one area where media has completely omitted to act in Pakistan is in relation to the existing religious minorities. The issues facing the minorities are so blatantly ignored by the media that it almost seems like a deliberate attempt not to bring the conditions of the minorities to the forefront. In Pakistan, the media acts more as a spokesperson for the government of the day rather than being neutral and depicting the true picture.

Religious minorities have constantly lamented the indifference of the media towards their existence but the media has failed to divert its focus on the issues facing the minorities. Even the little coverage that the minorities do receive on television or in newspapers usually carries a negative connotation. Public and private sector media has failed to project the reality of the minorities living in Pakistan; those who support or speak favourably of the minorities in the media are classified as agents of the Jews or Hindus and shunned by the public at large. Freedom of expression is a fundamental right but in Pakistan it has been less of a right and more of a weapon used to oppress the minorities.

In 2008, anchorperson Dr. Amir Liaqat while hosting a religious programme on Geo News, one of the popular news channels in Pakistan, repeatedly declared that the murder of Ahmedis was a duty of every devout Muslim. Within two days of the first broadcast of the programme, two

³³ *Seraiki* is one of the widely spoken languages in Pakistan. Today over forty million people of Bahawalpur, D.G. Khan, Multan and Sargodha divisions of present Punjab and Dera Ismail Khan speak it as a first language. It is understood as a second language in Northern and Western Sindh down to the suburbs of Karachi and in Kachhi plain of Baluchistan province.

Ahmedi community leaders were lynched and murdered but no investigation was conducted or any arrests made, despite occurrence of the horrific acts in broad daylight. Dr. Liaqat is known for habitually expressing his hatred for religious minorities on national television, yet the government or the channel has taken no action against him.³⁴

It is contended that the media has fuelled religious fanaticism by instigating anti-American, anti-Musharaff, anti-army and anti-west sentiments. The mainstream media, both vernacular and print, seems to be deeply impacted by the Islamists, even more than the government. According to an article by Nadeem F. Paracha *“popular media in Pakistan is playing to the gallery of glorified irrationalism”*³⁵. The media today interprets every terrorist activity to be taking place under some western agenda and this populist line of attack has become one of the factors for destabilizing national polity. The victimization of religious minorities has increased drastically ever since the ‘independence’ of media in Pakistan as they provoke many Muslims to resort to violence to counter anti-Islamic elements³⁶.

The big boost to media in recent times has caused the erosion of its objectivity. The media concentrates more on sensationalizing than bringing forth the real issues. Perhaps political and social chains hold them back from raising the issues of religious minorities. In an interview, Amarnath Motumal revealed that there have been occasions when he has spoken on television about the issues facing Hindus in Pakistan but his interview has never been part of the final broadcast, preventing true Hindu sentiments to be aired nationally.

2.5 Education

The Constitution of Pakistan specifically prohibits discriminatory admission to any governmental educational institution solely based on religious affiliations. The right to education is an unconditional right granted to every person in Pakistan without being subject to particular religion or gender. The religious-based biases in the field of education have had profound effects on the development and welfare of minorities within Pakistan.

The discriminatory culture pervades the field of education. Children belonging to religious minorities often face hostile attitudes within classrooms as Muslim children avoid interacting with non-Muslims. It has been observed that most children belonging to other faiths change their names so that they are not identified as non-Muslims³⁷ and hence escape discrimination.

³⁴ ‘Pakistan: No action taken against Geo TV presenter who incited Muslims to murder members of Pakistan minority on air - *A Statement by the Asian Human Rights Commission AHRC-STM-244-2008*’ (September 18, 2008)

³⁵ ‘On Screen, Out of Touch’ featured Article posted by Nadeem F Parachi in the daily newspaper Dawn. <<http://blog.dawn.com/2009/06/18/on-screen-out-of-touch/>>

³⁶ ‘*So Many Roads from Lal Masjid*’ Najam Sethi (Editor Daily Times and The Friday Times, Lahore) (July 12, 2007) <<http://www.indianexpress.com/news/so-many-roads-from-lal-masjid/204688/3>> ‘*On Screen, Out of Touch*’ by Nadeem F Piracha (July 19, 2009) <<http://www.new-pakistan.com/2009/6/19/on-screen-out-of-touch>>

³⁷ This information was conveyed to the writer during an interview with Mrs Baela Jamil (Chairperson, Idara-e-Taleem-o-Aagahi).

Pakistan's education policies throughout history have been designed from an Islamic perspective, promoting prejudices and biases on account of religion. The relation between extremism and education is very strong in Pakistan. Instead of the education curriculum carrying a neutral, non-religious tenor, it appears to be subtly conveying incendiary religious information, promoting religious hatred and violence. The proceeding policy does not focus on general welfare of the students but instils narrow religious thinking in their impressionable minds.

The State's inability to counter religious forces operating in the country has also led to an increase of militarism in Pakistan's public schools, colleges, and universities. These schools are apparently secular in nature but the extremist elements have seeped in gradually, having a weighty effect upon young minds. Militant *jihad* has become part of the culture on college and university campuses where armed groups have flourished, inviting students for *jihad*.

Curriculum promoting religious intolerance

Islamic enlightenment has been the underlying theme of almost all the curricula formulated in Pakistan. Islamic Studies is a compulsory subject until matric/secondary school and even though an alternative subject called ethics is offered to non-Muslims, it is seldom opted by them out of fear of social antagonism and discrimination. With the hope to gain better marks and improved social relations, most non-Muslims are forced to opt for the study of Islam. Additionally, ethics is a single subject that caters to all minorities as opposed to having different subjects for religious instruction pertaining to each non-Muslim faith.

Furthermore, the study of Islam is not confined to one subject only; chapters on Islam are part of subject material of history, social studies and languages. These subjects are compulsory for all and hence non-Muslim students are obliged to study them. The prime focus of history and Pakistan studies is the development of the Muslim world in the subcontinent whereas the role of minorities in the creation and development of Pakistan is largely excluded from school and college textbooks. *"They also contain material glorifying war, which tends to make the young value war and violence rather than peaceful solutions to problems. Islam too has been used to sanctify this policy of creating an anti-Hindu, anti-India, pro-war and chauvinistic mentality."*³⁸

The discrimination is instigated not only by what is contained in the textbooks but also by the teaching methodology. Teachers are not trained to be neutral and, inevitably, their religious inclinations are reflected in their style of teaching³⁹. Even in the new Education Policy of 2009, no innovative and religiously liberated method of teaching has been put forward. The process of curriculum-designing excludes the involvement of non-Muslim experts which is another factor leading to the huge Islamic influence in the curriculum.

³⁸ Daily Times 'Schoolbooks reinforce stereotypes of women: SDPI' by Waqar Gillani (March 31 2003), <http://www.dailytimes.com.pk/default.asp?page=story_31-3-2004_pg7_18>

³⁹ See supra fn 18.

However, the curriculum content appears to be undergoing a gradual change in the recent years in due respect of the various religious minorities. The latest educational curriculum available on the website of Ministry of Education shows an increased sensitivity to the religious diversity of the country and is an attempt to remove the misconception instilled in the minds of the students that being Pakistani is synonymous to being Muslim.

Examples

A review of the syllabus of Pakistan Studies for grade IX and X reveals that the Education Board has excluded nearly all such material that promotes intolerance against the non-Muslims of pre-partition India. The ideological basis of Pakistan has been discussed in the new syllabus with specific reference to the economic and social deprivation of the Muslim in the subcontinent and to the speeches of Quaid-e-Azam⁴⁰ and Allam Iqbal⁴¹, instead of linking it with the sovereignty of Allah in Islam and the cardinal principles of the Islamic way of life. The new syllabus emphasizes the fact that it was *'Muslim deprivation, not religion, that lead to partition'* of the subcontinent⁴². Furthermore, the minorities of Pakistan have also been discussed with specific reference to Quaid-e-Azam's speech of August 11, 1947 to define their status.

Previously, the National Early Childhood Education (ECE) 2002 stated one of its objectives to be *'to nurture in child a sense of Islamic identity and pride in being Pakistani'* without specifying that this objective was to be achieved by Muslims alone. It was unfair for non-Muslim students to be taught to identify themselves in an Islamic context. However, the National ECE curriculum 2007 amended this objective, which now states: *'to nurture in child a sense of identity and pride in being Pakistani'* and further adds *'to nurture tolerance and sense of diversity'*. The deletion of just one word i.e. *'Islamic'* makes the curriculum more relevant to the non-Muslim students of the country, without changing the true spirit of the ECE.

The National Education Policy (NEP) 2009 has also addressed the issue of lack of religious education regarding non-Islamic faiths. The policy states:

"The National Education Policy recognizes the importance of Islamic values and adheres to the agreed principles in this regard. All policy interventions shall fall within the parameters identified in the Principles of Policy as laid down in Articles 29, 30, 33, 36, 37 and 40 of Constitution of Pakistan 1973. These include the need for Muslim children to be provided instructions in Islamiyat to enable them to develop themselves as good Muslims. Similarly, minorities should be provided with facilities

⁴⁰ Refers to the 'Father of the Nation' Muhammed Ali Jinnah; he is regarded as the founder of Pakistan as he led the struggle for creating a separate state for the Muslims of India.

⁴¹ A renowned poet and philosopher of Pakistan.

⁴² *'School curriculum enlightened – Two Nation Theory Explained'*
<http://www.dailytimes.com.pk/default.asp?page=2006\12\07\story_7-12-2006_pg1_1>

to get education of their own religion.” (Chapter 2 – National Education Policy: Overarching Challenges and Responses, Point 48)

Almost all the subjects in the new curriculum have included ‘*promoting respect for cultural, social and religious diversity*’ as one of its objectives. However, it must be emphasized that the real change in education will take place when the teachers are sufficiently trained to impart the true spirit of the syllabus. The lack of checks and balances on the syllabus being taught in public and private schools leads to availability of many unofficial textbooks in the market that use words and symbols to push the inclinations of the students towards extremism and *jihad*. For example, a basic Urdu textbook published by Iqra Publishers, Rawalpindi used religious denotations to explain Urdu alphabets such as pictures from the 9/11 attacks, guns, women wearing *hijab*, caps displaying Arabic text and items like TV, guitar, dish antenna on fire to represent sin. Such denotations are used to strengthen their foundations of violence and to subtly direct them towards the path of *jihad* or holy war (*pages from the textbook are attached as Annexure A*). Such symbols and words not only develop an acceptability of religiously- motivated violence in the child but also “*creates in the mind of the schoolchild a sense of siege and embattlement by stressing that Islam is under threat everywhere.*”⁴³

Higher Education

Another difficulty facing the minorities is the restricted opportunities to acquire higher education in Pakistan. The education authorities, encouraged by the government, create many obstacles in the way of students belonging to minorities to gain admission in professional colleges and institutes. Most of the time they are denied admission on merit and the quota set for minorities by the government is very nominal. In September 2008, two Sikh students who applied for admission to the Government College University (GCU) were rejected because of a lack of minority seats at the institution, and as a cover up the administration claimed they were refused admission because they did not meet the requisite criteria.

To make matters worse, 20 extra marks are added to the original marks of students who have memorized the Holy Quran whereas no corresponding award exists for non-Muslim students. The admission schedules of some universities specifically state this; some examples are given in the table below:

⁴³ ‘*The Roots of Extremism in Pakistan - How Pakistan is being Saudi-ized and what this means for our future*’ by Pervez Hoodbhoy

Table 3: Text of Admission Schedules of Universities

Name of College	Text of the Admission Schedule	Degree
Medical and Punjab Institutes of Punjab	<i>"The following marks shall be added to the F.Sc. marks of the candidates in order to prepare the final merit list:-' Twenty (20) marks will be added for being a Muslim Hafiz-e-Quran, subject to verification of the same by a committee constituted by the Admission Board."</i> ⁴⁴	Admission in MBBS
Punjab University	<i>"1/4 of total marks obtained in SSC/O Level plus total marks obtained in Intermediate/A Level plus 20 marks for Hafiz-e-Quran. 1/4 of total marks obtained in SSC/O Level plus 1/5 of total marks obtained in Intermediate/A Level plus total Marks obtained in BA/B Sc/B.Com/BBA, plus 20 Marks for Hafiz-e-Quran Plus 20 marks each (maximum 40 marks) for the subjects of Mathematics, Statistics & Economics studied at Graduation Level."</i> ⁴⁵	Admission in MBA Programme
Bahauddin Zakariah University, Multan	<i>"Twenty marks are added to the academic marks in HSSC or equivalent examination of an applicant who is Hafiz-e-Quran. He gets the benefit only if he has: i) Filled in the necessary column provided in the application form, and ii) Appeared before the "Verification Committee" appointed by the University and the Committee accepts his claim of being a Hafiz-e-Quran."</i> ⁴⁶	Admission in B.SC Programme

A Christian student filed a petition in the High Court in 2005 against this policy under section 151 of the Code of Criminal Procedure. She demanded the elimination of the said policy or introduction of a parallel policy for religious minorities as she had been denied admission in King Edward Medical College as result of this discriminatory policy⁴⁴. The case is pending in the court till date and the impugned policy remains intact.

Madaris - Religious Schools

The term *madrasah* literally means 'a centre of learning' in Arabic and is the name given to institutions providing religious education in Islamic countries. A *madrasah* system university is called *Dar Ul Ulum*, (usually having hundreds of students), a primary school a *Maktab* (up to fifty students) and an integrated school with various levels is simply called a *madrasah*. The thrust of the education in *madaris* has been directed towards rampaging religious harmony of Pakistan and *madaris* have proved to be breeding grounds for religious intolerance⁴⁵.

Islamic religious teaching through *madaris* has become a façade for promoting religious hatred amongst young Muslims. Madaris have proved to be incubators for extremism, churning out fanatic Muslims taught to take all possible violent measures in the name of Islam, especially

⁴⁴ Daily Times 'Christian Students Files Petition Against 20 Marks for Hafiz-e-Quran Students' by Ali Waqar <http://www.dailytimes.com.pk/default.asp?page=200511128\story_28-11-2005_pg7_31>

⁴⁵ 'Reviving Pakistan's Pluralist Traditions to Fight Extermism' Lisa Curtis and Haider A. H. Mullick <www.heritage.org/Research/AsiaandthePacific/bg2268.cfm>

against religious minorities and women. Many of the Deoband⁴⁶ and Ahl-e-Hadith⁴⁷ *madaris* in Pakistan foster such a way of thinking. In a survey conducted in 2003 to assess the tolerance levels of *madrassah* students towards religious minorities, the following results were revealed:

	Affirmative Answers	Negative Answers	No Opinion
Ahmedis	12.68	82.39	4.93
Hindus	16.9	76.06	7.04
Christians	18.31	73.24	8.45

Source: <http://www.tariqrahman.net/language/Pluralism%20and%20Intolerance%20in%20Pakistani%20Society.htm>

As evident from the statistics in the table above, majority *madrassah* students held a negative opinion of the religious minorities living in Pakistan particularly the Ahmedis. In view of these statistics, the prospect for “*positive pluralism*” in Pakistan in the near future seems bleak especially with the drastic rise in *madrassah* education in Pakistan. The popularity of *madaris* can be directly related to increasing poverty in the country. *Madaris* are the only institutions that provide free education with free boarding and lodging for the students, hence attracting a large number of children from the poorer strata of society. However, according to a report on Pakistan by the US Institute of Peace (USIP) in 2007, children from higher-income families are also found in *madaris*.

In January 2002, President Pervez Musharraf’s government put forth its Education Sector Reform (ESR) plan, with a view to revamp the government education system in accordance with modern standards. The underlying idea was to develop a more secular system in order to pacify aggressive international pressures to eradicate religious intolerance post September 9/11. However, these announced reforms did not come through and failure of the public school system further pushed people towards affordable religious education.

The primary flaw of *madrassah* education is its general resentment of critical thinking. The curriculum portrays an extremely strict and conservative image of Islam, depriving students of the right to question or argue. Most political parties and governments have benefitted from such a radicalization of the thought process and hence have encouraged the growth of *madaris* all over the country. Since such curriculum strictly defines right and wrong without allowing even a diminutive margin of disagreement, it leads to unquestioned allegiance to laws and policies of the State, without the government having to worry about any public resentment⁴⁸. If manoeuvred in the right direction, religious education can prove to be highly beneficial but in Pakistan, it has becoming a breeding ground for intolerance and constricted thinking.

⁴⁶ The Deoband is an Islamic school propagating Sunni Islam. They emphasise on the fact that Islam should be a considered as a personal rather than a social religion.

⁴⁷ The Ahle-e-Hadith (People of the Hadith) is a group of Sunni Muslims in India who do not consider themselves bound by any particular school of law and rely directly on Prophet Muhammad Sunnah (deeds and sayings).

⁴⁸ ‘*Redeeming Pakistan’s Madrassahs*’ by Saleem H. Ali
<http://www.dailytimes.com.pk/default.asp?page=2009\05\23\story_23-5-2009_pg3_3>

“A review of Madrassah syllabus shows that in the foundations of traditional Madrassahs are the seeds of factional, religious, political and cultural conflict. Defining feature of Madrassahs is an education that creates barriers to modern knowledge, stifling creativity and breeding bigotry.” (International Crisis Group, 2002).

The concept of *jihad* (holy war) has gained utmost importance in the *madrassah* curriculum. The emphasis is more on militancy than on the tenets of Islam, urging the students to take the path of *jihad* and martyrdom (*shahadat*). Many suicide bombers in the recent times have been traced back to different *madaris*; for example the bombers in the July 2005 London bombings have been linked to *madaris* in Faisalabad and Lahore.

The government has attempted to monitor the funding of *madaris* but lack of cooperation from *madaris* authorities has rendered their efforts futile. The absence of laws to regulate religiously-motivated philanthropy has drastically increased the number of *madaris* leading to figures as high as 45,000 *madaris* (reported since 1947)⁴⁹. The HRCP has reported 14,656 registered *madaris* and between 1000 and 1500 unregistered institutions in the year 2008. According to the figures of National Consensus on Education, released in July 2008, a total number of 12,153 *madaris* are present in the country excluding mosque schools where only the Holy Quran is taught. According to *The News* (a local newspaper), more than 8,000 religious seminaries, enrolling 1.7 million students, are affiliated with *Waqaful Madaris Al Arabia*, the biggest and oldest organization of religious institutions in Pakistan.

In the wake of the London bombings, the demand for a regulatory law for *madaris* became stronger and the government introduced Section 21⁵⁰ in the Societies Registration Act, 1860. This section provided for mandatory registration and required the *madaris* to submit an annual performance report, give an account of funding, and get annual audits done. It also prohibited teaching material that would result in sectarianism and hatred towards other religions. However, the Organization of Defence of Madrassahs rejected this amendment. As a result, the government was forced to tone down the requirements of the already mild Section

⁴⁹ ‘Madrassahs – A Threat to Enlightened and Moderate Islam’ by Syed Tauqir Hussain Shah (CPS International Policy Fellowship Program)

⁵⁰ **2. Insertion of new section 21 of Act XXI of 1860.**--In the Societies Registration Act, 1860 (XXI of 1860), after section 20, the following new section 21 shall be inserted, namely:-

“21. Registration of Deeni Madrassah.--(1) A Deeni Madrassah by whatsoever name called shall not be established or operated without being registered as a society under this Act.

- (2) The Deeni Madrassah shall, in addition to the other provisions of this Act, be subject to the following conditions:
- (a) to submit annual report of its activities and performance to the Registrar;
 - (b) to maintain accounts of its expenses and receipts and annually submit the report to the Registrar; and
 - (c) to cause to be carried out audit of its accounts by an Auditor and annually submit its audited accounts to the Registrar.

(3) No Deeni Madrassah shall teach or publish any literature which promotes militancy or spreads sectarianism or religious hatred.

Explanation.--In this section, “Deeni Madrassah” means a religious institution established or operated primarily for the purpose of imparting religious education whether providing boarding and lodging facilities or not and includes a Jamia, Par-ul-Uloom, School, College, University, or any other religious institution, called by whatsoever name, set up for the aforesaid purpose.”

21⁵¹ by removing the requirement ‘to maintain accounts of its expenses and receipts and annually submit the report to the Registrar’ and also introduced the study of comparative religions in the curriculum, which was almost equivalent to legally sanctioning promotion of religious hatred for other belief systems⁵².

The promises of the government to reform the *madaris* curriculum continue in 2009. During a trip to Washington in May this year, President Asif Ali Zardari announced that his government would take over all *madaris* as part of the Madrassah Reforms Project⁵³ initiated in 2002. According to the Project, genuine students would be separated from extremists and they would be imparted both modern and religious education⁵⁴. An estimated budget of 5759.395 million rupees has been allocated to the Madrassah Reforms Project under the Public Sector Development Program. This project has been in place since 2002 but the government has only been able to utilize 333 million rupees from the entire budget till date. The government has blamed the lack of cooperation of the madrassah authorities for the limited utilization of the funds. The Ministry of Education is considering to discontinue the project by 2010 since they have been unable attain the real objectives of the Project⁵⁵. Given the situation, the President’s announcement earlier this year will not carry much weight.

The latest NEP 2009 (draft) also attempts to bring tolerance of minorities within the fold of *madaris* education, by stating:

“There is another divide between the curriculum that is offered to the children enrolled in Deeni Madaris and the curriculum in the rest of the public and private establishments. There

⁵¹ Societies Registrations (Amendment) Act 2006

2. Amendment of section. 21 of Act XXI of 1860.---(1) In the Societies Registration Act, 1860 (XXI of 1860), for section 21, the following shall be substituted namely:--

“21. Registration of Deeni Madaris.---(1) All Deeni Madaris by whatsoever name called shall not operate without getting themselves registered:

Provided that the Deeni Madaris, which are established after the commencement of this Act, shall get themselves registered within one year of their establishment.

Explanation.--One Deeni Madrassah having more than one campus shall need only one registration.

(2) Every Deeni Madrassah shall submit annual report of its educational activities to the Registrar.

(3) Every Deeni Madrassah shall cause to be carried out audit of its accounts by an auditor and submit a copy of its audit report to the Registrar.

(4) No Deeni Madrassah shall teach or publish any literature which promotes militancy or spreads sectarianism or religious hatred:

Provided that nothing contained herein shall bar the comparative study of various religions or schools of thought or the study of any other subject covered by the Holy Qur’an, Sunnah or, the Islamic jurisprudence.

Explanation.--In this section “Deeni Madrassah” means a religious institution and includes a Jamia, Dar-ul-Uloom, School; College, University or called by any other name, established or operated primarily for the purposes of imparting religious education; which provides boarding and lodging facilities.”

⁵² See fn. 9.

⁵³ Madrassah Reforms Project (Teaching of Formal Subjects in Deeni Madaris) All Pakistan (Public Sector Development Program 2007-2008) <http://www.moe.gov.pk/PSDP%202007-2008_Pr_APCC_NEC.pdf>

⁵⁴ ‘Government to Take Over All Madaris’ The News reported by Mohammad Saleh Zafar, Sunday, May 10, 2009 <http://thenews.jang.com.pk/top_story_detail.asp?Id=22050>

⁵⁵ Pakistan Madrassah Reforms in Tatters, Daily Times, July 17, 2009 <http://www.dailytimes.com.pk/default.asp?page=2009\07\17\story_17-7-2009_pg1_9>

*is also an unresolved and continuing debate on how and what religious and moral values to be taught through the educational system and **how to accommodate non-Muslim minorities.***"

How far these reforms and policies will be effective in streamlining the *madrasah* curriculum by incorporating subjects from the formal education system is yet to be seen.

2.6 Laws and the State⁵⁶

The legal and constitutional frameworks of Pakistan have failed to accept Pakistan as a multi-religious society and discriminatory laws have been continuously drafted since the formation of Pakistan in 1947. In the current legislative set-up in Pakistan, there are a number of laws that instigate discrimination based on religion and, despite much outcry, the government has turned a blind eye to these laws.

Pakistan has pledged under the UN 'Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Implementation and Relief 1981' to:

1. ... take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
2. ... make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Although not binding in nature, the Declaration implies an expectation of observance as it further states:

7.1. The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

However, in Pakistan, these protections have remained limited to paper and the implementation in its full spirit has not taken practical form. Even though the Constitution of Pakistan does recognize the right to freedom of thought, conscience and religion, various statutory laws have been drafted in complete negation of this express recognition. All such laws that discriminate against religious minorities in Pakistan have been elaborated below to highlight the ineffectiveness of the State to ensure equal rights for all.

⁵⁶ Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Pakistan : Overview*, 2007, available at: <http://www.unhcr.org/refworld/docid/4954ce652.html>

Daily Times 'APMA Demands a 30 Point Charter' (August 13, 2007)
<http://www.dailytimes.com.pk/default.asp?page=2007\08\13\story_13-8-2007_pg7_26>

Constitution of Pakistan, 1973

There is an overwhelmingly preferential treatment of Muslims under the Constitution. Mohammad Ali Jinnah, the founder of Pakistan, emphasized on the parity of citizens especially in the political sense regardless of their religious affirmation⁵⁷. However, a number of provisions in the Constitution deepen the divide between Muslims and non-Muslims in Pakistan.

- (a) Political Offices: The Constitution of Pakistan has limited the highest political offices of the president and prime minister for Muslims only:

President: (2) *A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the National Assembly.* (Article 41 (2))

Prime Minister: The oath given under Schedule Three of the Constitution is clear evidence of the fact that only a Muslim can qualify for this office as it requires him/her to declare his/her belief in the Oneness of Allah, Books of Allah, finality of the Prophet (pbuh) and in all the requirements and teachings of the Quran and Sunnah.

- (b) Definition of a non-Muslim⁵⁸: Christians, Hindus, Sikhs, Buddhists, Parsis and Ahmedis are defined as non-Muslims in Pakistan under the Constitution. State has acted in excess of its constitutional duties by including Ahmedis in the definition of non-Muslims. The State does not have the right to exclude a group, believing itself to be Muslims, from the religion of Islam. Faith is a personal phenomenon and the right does not lie with the State to decide the religion of its citizens.
- (c) State Religion⁵⁹: Islam has been declared as the state religion of Pakistan under the Constitution. This law has been the underlying basis of giving Islamic principles utmost priority in all fields of governance but it is also proved to be a license to override the rights of people belonging to other faiths in Pakistan.
- (d) Article 227: This article requires all laws to be brought in conformity with the injunctions of Islam and Sunnah⁶⁰. Despite a disclaimer in clause 3 of the Article that this will not affect the personal laws of non-Muslims, laws such as anti-blasphemy laws and *Hadood* laws have in fact interfered with the personal laws of minorities.

⁵⁷ The All Pakistan Minorities Alliance released a 30-point charter regarding the rights of minorities in Pakistan in August 2007 in which one of its demands was that Quaid-e-Azam Mohammad Ali Jinnah's speech, delivered on August 11, 1947 in the first Constituent Assembly, should be made an integral part of the Constitution and anything contrary to the Quaid's speech should be rescinded.

⁵⁸ Article 269(3), Constitution of Pakistan 1973

⁵⁹ Article 2, Constitution of Pakistan 1973

⁶⁰ Sunnah is an Arabic word (plural of Sunnat) which means the way, the method, the regular habits or the nature. In Islamic terms it refers to the deeds and sayings of the Prophet Muhammad which Muslims are recommended to follow in their daily lives.

- (e) Federal Shariat Court⁶¹: The formation of the Federal Shariat Court in 1980 was a another step towards crushing the minority rights in Pakistan. This court has been given the jurisdiction to singularly challenge any decision of the other secular courts, provincial legislature or national legislature that violates the “*injunctions of Islam as laid down by the Holy Quran and Sunnah*”⁶². The court has been granted extensive powers under this law to interpret the decisions of the other courts, but in practice, it has barely exercised its jurisdiction. Perhaps one of the most famous clashes took place in the case of Mukhtaran Mai⁶³ in 2002.

Islamic Criminal Laws

The Islamic criminal laws have been one of the most contentious pieces of legislation in Pakistan, imposed in complete disregard of the rights of non-Muslims and women in Pakistan. These laws were brought into operation during General Zia-ul-Haq’s regime in order to enforce the Islamic system of justice in Pakistan and are still in force today. In Islamic terminology, these laws are referred to as the “Hudood Laws”, given in detail below:

A. Hudood Laws

- 1 The Offence of Zina (Enforcement of Hudood) Ordinance, 1979
- 2 The Offence of Qazf (Enforcement of Hudood) Ordinance, 1979
- 3 Offences Against Property (Enforcement of Hudood) Ordinance, 1979

One of the most controversial laws in Pakistan is the ‘Zina (Enforcement of Hudood) Ordinance 1979’. The aim of this law is to regulate the offence of *zina* i.e. having sex outside of marriage according to Islamic principles and enforcing Islamic punishment on those who commit the offence. The offence of rape is also covered within the definition of *zina*. Related to this legislation is the ‘The Offence of Qazf (Enforcement of Hudood) Ordinance 1979’, which imposes Islamic punishments for those who make false imputations of *zina* against a person. ‘Offences Against Property (Enforcement of Hudood) Ordinance 1979’ is another Hudood law enacted to bring the existing property-related law in accordance with Islamic principles.

⁶¹ Article 227, Constitution of Pakistan, 1973

⁶² Article 227 (1) Ibid.

⁶³ Mukhtar Mai, aged 30, was a victim of gang rape. She was raped allegedly on the orders of a village council in the southern Punjab village of Meerwala in Pakistan in 2002. This case caught international attention and remains an unprecedented case in the judicial history of Pakistan. The Supreme Court intervened in the case and set aside the ruling of the Federal Shariat Court. For a history of the rape case please refer to the following article ‘*Mukhtaran Mai - History of Rape case*’ BBC News (June 28 2005)

<http://news.bbc.co.uk/2/hi/south_asia/4620065.stm>

Critique of Zina and Qazf Ordinances:

The Zina laws do not draw a distinction between adultery and rape and there is no provision in the law which excludes non-Muslims from its jurisdiction. The punishments enforceable under these laws do not accord with other belief systems and making them obligatory for all citizens can potentially cause grave injustice for non-Muslims. These laws also carry a strict evidence requirement. It bars non-Muslims from giving evidence unless the accused is also non-Muslim, whereas Muslims can bear witness even in cases involving an accused who is non-Muslim. Furthermore, a non-Muslim rape victim or non-Muslim who commits adultery is subjected to punishments according to Islamic law. However, so far no *Hadd* punishment has been imposed, but these laws are akin to swords hanging over the heads of Pakistani non-Muslims.

B Pakistan Penal Code, 1860

1. Qisas and Diyat Ordinance (Offences Against Human Body – PART XVI)

This is another piece of legislation deployed to discriminate against religious minorities. This Ordinance states that in case of violation of certain penal laws, the right to grant punishment or pardon lies with the victim's family as opposed to the State. The family can:

- i. Impose the punishment of *qisas*⁶⁴ i.e. *by causing similar hurt at the same part of the body of the convict as he has caused to the victim or by causing his death* if he has murdered the victim or;
- ii. Demand *diyat*⁶⁵ i.e. compensation, referred to as blood money, in case the death of the victim is caused by an act of the accused.

Both of these punishments have been taken from Islamic law and are part of the Pakistan Penal Code (PPC) 1860. The main objection levelled against this law is the unfair distinction drawn between Muslims and non-Muslims in the application of the laws. Under these laws if a Muslim murders a non-Muslim, he is eligible to pay compensation to the victim's family, but if the accused is a non-Muslim, he is barred from paying blood money and must face either a prison sentence or the death penalty.

2. Anti-Blasphemy Laws (Offences Against Religion – PART XVI)

These laws are discussed in detail in section 2.3 – Freedom of Expression.

⁶⁴ Qisas refers to the right of the heirs of a murder victim to demand execution of the murderer.

⁶⁵ *Diyat* refers to the compensation paid to the heir of the victim

Qanun-e-Shahadat Order, 1984 (Evidence Act)

This law reduces the value of non-Muslim witness to half of that of Muslim witnesses for legal cases falling within the ambit of Islamic law. Furthermore, it undermines the competence and quality of witnesses according to the qualification imposed by the injunctions of Islam. Non-Muslims are subjected to the principles of Islamic law in determining the quality of their evidence.

Section 3 and 17 state:

- 3 ... Court shall determine the competence of a witness in accordance with the qualifications prescribed by the Injunctions of Islam as laid down in the Holy Quran and Sunnah for a witness, and, where such witness is not forthcoming, the Court may take the evidence of a witness who may be available.
17. Competence and number of witnesses. --- (1) The competence of a person to testify, and the number of witnesses required in any case shall be determined in accordance with the Injunctions of Islam as laid down in the Holy Quran and Sunnah.

International Instruments

There are certain international human rights treaties that Pakistan has not yet ratified, including the International Covenant on Civil and Political Rights and its Optional Protocol (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), and the Convention on the Protection of the Rights of All Migrant Workers. Greater protections are granted to the minorities under these treaties and the reluctance of the Pakistan State to ratify these is itself a subjugation of the rights of minorities. For example, Article 20 of the ICCPR imposes an obligation on member states to prohibit by law:

'... any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.'

2.7 Forced Conversions

A growing number of cases of forced conversions and marriages are reported in Pakistan every year. The Islamic fundamentalists persistently manipulate the members of minority communities to convert to Islam by adopting all types of drastic measures to achieve this end. Most of the Muslims converts are forcefully converted to Islam under duress or after being

abducted and brainwashed and “a majority of such abductions and conversions go unreported,” in the opinion of Kanjee Bheel of the HRCP⁶⁶.

Some alarming figures and cases of the past few years have been highlighted below:

2004: In May 2004, an 18-year-old Christian boy was brutally tortured by students and teachers from a religious school in Toba Tek Singh while forcibly converting him to Islam. He was tortured for five consecutive days before being dumped in the nearest police station on false charges of robbery. After being held in police custody for two days he was admitted to a hospital due to his deteriorating health condition where he succumbed to his injuries. The Bishop’s Commission is reported to have said that political leaders were unduly protecting the school and the police refused to investigate the cause of the injuries of the boy or the allegations levelled against him. The Bishop’s Commission pursued the case in court and two years later in March 2006 the offenders were sentenced to 25 years imprisonment. The Bishop’s Commission claimed, “*Religious intolerance and discrimination is the reason behind the recent incidents where young non-Muslims were forcibly converted and circumcised.*”

2005: A prominent case of abduction and conversion took place in October 2005 when three Hindu girls went missing. The parents had to approach the concerned Station Officer to file a complaint, as the local police refused to lodge an FIR (first information report). Three boys from their locality were named as suspects by the parents. Soon after the FIR was lodged, the parents received a letter in which the girls wrote that they had converted to Islam consensually and they wanted to live separately. Their sworn statements, signed using their new Islamic names, stated that Islamic books and philosophy had inspired them and this is the reason why they converted. They also claimed they were living in a *madrasah* under the supervision of a local cleric.

The parents met the girls almost a month later in the presence of the police and *madrasah* representatives. The parents appealed to the State that the girls should be shifted to a shelter home for better protection. The Supreme Court responded to their appeal by ordering the girls to be shifted to Edhi Homes but since the girls claimed they had voluntarily converted they were allowed to continue education in the *madrasah*. The issue of whether this was truly a case of abduction and forced conversion remains a mystery but the Hindu community claims that similar abductions and forced conversion to Islam have become normal practice and according to Amarnath Motumal they are now an everyday occurrence.

2006: According to data collected by HRCP, 20 women were kidnapped in 2006 and it is believed most of these abductions were part of an attempt to convert them to Islam. The APMA has reported that up to 25 Hindus from Sindh were forcibly converted to Islam in the same year. In a consultation on “Forced Conversion of Women and Minorities Rights in Pakistan” held in May 2006 by the Minorities Commission of Pakistan, it was said that forced

⁶⁶ The News International, Pakistan ‘*Sindh’s Stolen Brides*’ by Mariana Baabar (January 24, 2006) <<http://www.jang.com.pk/thenews/jan2006-daily/24-01-2006/main/main13.htm>>

conversions figures reach between 500 to 600 people a year in Pakistan, although “national media reports only 100 such cases”⁶⁷.

In December 2006, the Supreme Court took notice of the complaint filed by Hindu parents from Ghotki, Sindh. They claimed their 13-year-old girl had been abducted and forcibly converted to Islam. She was also given an Islamic name and married to a Muslim man. The girl, as in most other cases, claimed she had wilfully converted. The case reached the Supreme Court, where a three-member bench headed by Chief Justice Iftikhar Muhammad Chaudhary ordered the medical examination of the girl to determine whether she had attained puberty⁶⁸, and if she had not reached puberty, the accused could be tried for rape.

2007: The following table shows the number of reported conversions to Islam in 2007. Most convert under pressure from Muslim extremists while some convert in hope of more rights and a better standard of living.

Table 5: Reported Conversions to Islam (2007)

Conversion	Men	Women	Children	Total
Christians	10	10	0	27
Hindus	-	1	-	1
Ahmedis	1	-	-	1
Total	11	11	7	29
Province Wise	Punjab	NWFP	Balochistan	Sindh
	21	7	-	1

Source: *A Report on Religious Minorities, National Commission for Justice and Peace*

2008: One of the most alarming cases of forced conversion took place in 2008. Two sisters were kidnapped in June and the kidnappers married the girls after forcibly converting them to Islam. The police was unable to locate the girls and the abductors themselves came forward to declare that they had wedded the girls after the girls voluntarily converted to Islam. The kidnappers filed for their custody in the court claiming that now the father had no right over them. The case was referred to the District Court, Muzaffargarh where the judge ruled that the disputed conversion was legal and the father was denied custody of his own daughters. This was a severe travesty of justice and an example of the failure of the judiciary to decide fairly in cases involving minorities.

2009: The trend of forced conversions has picked up momentum in the northern areas in the wake of *talibanization*. In the NWFP, Islamists commonly level threats against non-Muslims

67 Asia News 'Around 600 people a year are forcibly converted to Islam' by Qaiser Felix May 30, 2006
<<http://www.asianews.it/index.php?l=en&art=6305>>

68 Islam permits marriage at that age.

to convert to Islam or die. The re-emergence of the Taliban in the area has converted most of these threats into reality. The Taliban recently threatened the Sikhs to “convert to Islam, join the jihad or pay five billion rupees”. Even after the full amount was paid, the Taliban threatened to attack as a result of which many Sikh families living in the Orakzai Agency, NWFP left the agency and fled to Peshawar, the provincial capital.⁶⁹

2.8 Minority Graveyards

One of the biggest violations of human rights takes place in Pakistan when the deceased members of the religious minorities are denied space in graveyards, when buildings are constructed over non-Muslim graveyards or when Muslims extremists exhume their bodies if they are buried amongst Muslims. Even the dead non-Muslims are not exempt from acts of violence of Muslim extremists.

The Ahmedis in particular have trouble in acquiring burial places for their deceased. In April 2008, local extremist elements put immense pressure on authorities in Kasur to remove the grave of a 17-year-old Ahmedi girl from a Muslim graveyard. In accordance with the wishes of the clerics, the grave was dug up, ten days after the girl's death, and her body was transferred to an Ahmedi cemetery. Similarly, in 2008, the body of a 60-year-old woman in Sindh was exhumed from a Muslim-Ahmedi common cemetery as the local clerics protested against the burial. The body had to be reburied in a purely Ahmedi graveyard in the presence of district police.

The Human Rights Watch (HRW) issued a statement in 2007, accusing the Pakistan government of favouring the fundamentalists and violating the rights of groups such as the Ahmedis. The statement quoted the incident in which the police in Lahore had allowed and in fact overseen the demolition of a boundary wall of an Ahmedi graveyard on the grounds that the construction was illegal as it did not follow the approved building plan. Two Islamic groups had for some time exerted pressure on the provincial authorities to bring down the wall and hatred speech was consistently launched against Ahmedis. The police were unable to stop the religious extremists and surrendered before their mounting pressure.

Such acts of vandalism also take place against Christians. Quoting a recent example, in 2007, graves in a Christian cemetery located in Village Latha Singh, Defence Housing Authority, Lahore were trampled by the authorities, without furnishing any valid reasons. The Christians further claimed that they had also been stopped for burying the dead in this graveyard for some time now. The Christian community of the area staged protests and demanded action against this but to no avail. In the same year, local Muslims also occupied another graveyard

⁶⁹ Daily Times ‘Sikh Families leave Orakzai after Taliban demand Jizya’ (April 15, 2009) http://www.dailytimes.com.pk/default.asp?page=2009\04\15\story_15-4-2009_pg7_5, Dawn ‘Pakistan's religious minorities report violence’ (May 14, 2009) <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/15-Pakistans-religious-minorities-report-violence-nf-01>

situated in Tehsil Gojra and despite a complaint being lodged, the administration failed to take notice of the incident.

2.9 Positive Developments

A few positive developments also took place for the betterment of minorities.

The Federal Cabinet approved the Sikh Marriage Ordinance 2008 in January 2008. According to this law, Sikh marriages solemnized under Sikh personal law could now be registered in Pakistan. The law also further dealt with void and voidable marriages, divorce, legitimacy of children, alimony and maintenance and custody and maintenance of children.

In February 2008, the government allotted 34 kanals (1/8th of an acre) of land for crematorium at Babu Sabu to almost 1000 Hindus living in Lahore and adjoining areas.

In December 2008, the Punjab Provincial Minister for Human Rights and Minorities Affairs announced a six-month sentence remission for Christian prisoners on the completion of a religious course⁷⁰. Also, the prisoners belonging to various minority groups in Adiala Jail, Rawalpindi were allowed to visit their own worship places in pursuance of a directive issued by the Human Rights Ministry.

3. Women

“No nation can rise to the height of glory unless your women are side by side with you; we are victims of evil customs. It is a crime against humanity that our women are shut up within the four walls of the houses as prisoners. There is no sanction anywhere for the deplorable condition in which our women have to live.”

(Mohammad Ali Jinnah, 1944)

Gender equality has been the hymn of human rights activists, lawyers and civil society for decades in Pakistan. Women have tremendously suffered in Pakistan due to state legislation, especially the Hudood Laws. Social norms prevalent in the Pakistani society have played a significant role in isolating women from entering the mainstream. Those that have progressed form a very minute part of the 63,478,593⁷¹ women population in Pakistan. The chains of law and morality have been very strictly imposed on the women in Pakistan because men, especially from the tribal areas, to date believe in the age-old rhetoric that women are the root of all evil.

⁷⁰ ‘The Mirror (Special Issue) Legislative Watch – An Assessment of the Parliaments Performance in terms of Legislation on Human Rights’ (April 1st to December 31st 2008) by National (Catholic) Commission of Justice and Peace, Page 9.

⁷¹ Population by Sex, Sex Ratio, Average Household Size and Growth Rate (1998 Census) <http://www.statpak.gov.pk/depts/pco/statistics/pop_sex_ratio_growth_rate/pop_sex_ratio_growth_rate.html>

3.1 Political Regimes and Women's Rights

Jinnah, the founding father of Pakistan, was the biggest proponent of women's rights. Sharing political power with his sister Fatima Jinnah is the clearest example of his belief in the parity of the rights of men and women. The role of Islam within the legal structures of the country as envisioned by Jinnah became much disputed in the governments that followed his demise. Subsequent governments failed to bring stability in the country and soon the lack of consensus, primarily on the role of Islam in political and legal structures, led to the first military coup in Pakistan in 1958, headed by General Ayub Khan, whose vision was similar to that of Jinnah's. He wanted to establish Pakistan as a secular state and protect women's rights by introducing legal reforms. In pursuance of this goal, he issued the Muslim Family Law Ordinance in 1961 -- a law that restricted polygamy and regulated marriage and divorce, granting women more equal rights than ever before.

After 24 years of martial law, elections were held in Pakistan and Zulfikar Ali Bhutto was elected to the office of prime minister. During Mr. Bhutto's regime, women's political participation increased substantially and his regime also saw the making and implementation of the Constitution of 1973, which governs the State till date. This Constitution was a clear example of Bhutto's liberal school of thought which attempted to strike a balance between the religious and secular elements of the State. While he made Islam the state religion, he also ensured the rule of law and forbade discrimination on the basis of gender. He also gave the State the power to make special provisions, if need be, for the protection of women and children. His policies were aimed towards changing the patriarchal nature of Pakistani society.

However, his regime faced heavy criticism from the religious leaders who decried his legal reforms and push for gender equality as un-Islamic.

Despite much opposition, Bhutto was re-elected in 1977 only to be overthrown by the imposition of another martial law within one year of his re-election. General Zia-Ul-Haq was the new military leader who had serious reservations regarding Bhutto's progressive policies. Zia aggressively began the process of Islamization in Pakistan, also using "*Islamic values and rhetoric to legitimize his regime and consolidate his power*". Even though the process of Islamization of the constitution had commenced during Bhutto's regime, the changes brought by Zia were much more extreme, reflecting his orthodox mindset. The biggest blow to women's rights occurred in Zia's regime when he implemented the Hudood laws and established the Federal Shariat Court. Zia's era marked the time when the subjugation of women's rights began, and his stringent policies continue even today.

3.2 Legal Discrimination of Women

Hudood laws

As stated earlier, Hudood laws were enacted in 1979 during the dictatorial Zia regime. They were a set of penal laws governing extra-marital sex (*zina*), false accusation of *zina* (*qazaf*), and drinking of alcohol and offences related to property according to the Islamic injunctions. Offences covered under the Hudood Ordinances are punishable by had or maximum punishment, as defined in the Holy Quran. For *zina* crimes, these punishments are whipping and stoning to death.

The provisions dealing with sex outside of marriage blatantly discriminate against women. Previously, the law dealing with these crimes was much milder than the one replacing it. Under the older law, women could not be charged with adultery, marital rape was a crime and evidential requirements to prove rape were also less stringent. The new requirements imposed under Hudood laws created a much severe and hostile legal environment for women to pursue cases in an already male-dominated society. Hudood laws are clearly in conflict with the principle of gender equality that is enshrined in the Article 25 of the Constitution that does not permit discrimination on the basis of sex alone.

The application of these laws has led to severe injustice for women because proving rape has become next to impossible. Under Hudood if a woman makes a rape allegation she must provide four pious male witnesses or face a charge of adultery herself especially if she is pregnant. Since in most cases she is unable to meet the high evidentiary standard of providing four adult male Muslim eye witnesses who have physically seen the act of penetration, her statement pertaining to sexual intercourse or pregnancy is treated as her confession (to adultery) and thus is charged with the offence of *zina*. At times, she is not only charged for committing adultery but also becomes guilty of false accusation (*Qazaf*) incurring additional penalties. The evidentiary burden makes it extremely difficult for a victim of rape to attain justice in the patriarchal courts and women have often been tragically found in jail for the 'crime' of naming their attackers.

There have been various cases of rape or consensual intercourse outside of marriage where women alone have been punished. The men are given the benefit of the doubt and are acquitted by the Federal Shariat Court. In one case, a fifteen-year-old girl named Jehan Mina was raped by her uncle as a result of which she became pregnant. Due to lack of evidence, i.e. four witnesses, her rapist was acquitted whereas she was convicted for adultery by the lower court for her "unexplained" pregnancy which was considered by the court as a confession of *zina* i.e. adultery.

Most women are hesitant to raise their voices against rape due to the possibility of judicial conversion of rape to consensual adultery if adequate evidence is not furnished. In the male-dominated Pakistani society, the judges are also biased and cross-examination is a brutal ordeal for most women. In March 2009, a District Judge in Karachi Nizar Ali Khawaja made a spectacle of a 13-year-old rape victim before a full court by asking her unnecessary, excruciating

details of her traumatic experience. The judge's questioning outraged the victim's family and prosecutors, especially when he refused to clear the court of un-related onlookers.

The ingredients necessary to prove crimes involving sex outside of marriage have hugely encouraged violence against women. The law allows an easy escape route for men, forcing women to face the brunt of all sexual crimes. It is an unfortunate situation for women. The HRCP reported 731 cases of rape and gang rape in 2007.

The Law of Evidence

Section 17 of the Qanun-e-Shahadat Order 1984 (Law of Evidence) tarnished women's participation as legal equals in economic affairs by reducing the value of female testimony to half of that of a man. Female testimony is admissible in court only if it is corroborated by another man or woman. In modern day Pakistan, women have become active participants in the economic activity of the country and reducing the value of women's court testimony has deep implications on both civil and criminal suits.

Offences against the Human Body – Qisas and Diyat Ordinance

As discussed earlier in this report, Qisas and Diyat Ordinance is the Islamic codification of the concepts of 'an eye for an eye' and 'blood money'. The heirs of victim can grant forgiveness for a crime in return for monetary compensation or they can cause proportionate amounts of hurt to the accused. Qisas and Diyat ordinance essentially places the choice of prosecution wholly in the hands of the victim or her heirs, rather than the government.

Honour Crimes

The widespread prevalence of 'honour crimes' in Pakistan are given legal cover under this Ordinance. HRW defines honour crimes as "acts of violence, usually murder, committed by male family members against female family members who are perceived to have brought dishonour upon the family"⁷². "Honour" is a deep-rooted traditional notion existing in the desert tribes during the pre-Islamic eras and has over the years seeped into the basic theme of Islamic family law. Under this concept, different roles are assigned to men and women. Women, particularly their sexual activities, represent the honour of the family, and men are considered the protectors of this honour. Rather than possessing honour herself, a woman represents male honour, therefore all of her actions are considered to reflect upon her male family members. Actions that commonly lead to honour killings in Pakistan include women seeking divorce, adultery, premarital sexual relations, premarital pregnancy, or being the victim of a sexual assault or rape.

⁷² Human Rights Watch, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women and "Honour" Crimes*, Intervention Before the 57th Session of the U.N. Commission on Human Rights (Apr. 6, 2001), available at http://www.hrw.org/press/2001/04/un_oral12_0405.htm.

Example:

Perhaps the most well-publicized case of honour killing took place in April 1999 when Saima Waheed was shot dead by her family's gunmen in her Attorney's office, in the presence of her mother. She was accused of bringing shame to the family by marrying a man of her choice. She eloped and lived in a shelter home in Lahore while her parents tried to declare her marriage invalid as it was without their consent. The astounding feature of this case was the parents of the victim were not illiterate people from a remote tribal area, but educated, influential, city dwellers⁷³. The ruling by the Lahore High Court in this case upheld a woman's right to marry freely but called for amendments to the family laws, on the basis of Islamic norms, to enforce parental authority to discourage "love marriages".

The gravity of the condemned act for which a woman is punished with death is seldom a consideration for those killing for honour. The following two cases show that even very trivial matters can lead to honour killings. In December of 2002, a 16 year-old Pakistani girl was killed after she joined in a dance with other family members at a wedding reception. One of the young men present caught hold of the girl's hand, and, although she quickly snatched it away, her male relatives noticed the exchange and later killed her⁷⁴.

A more recent incident of honour killing took place in March 2008 when a 25-year-old woman was hit on the head by her teenage cousin who accused her to be of "loose character" and did not approve her moving around in the city alone. The woman died of her injury.

Qisas and Diyat Ordinances present a major legal obstacle for the effective redress of honour crimes. Such violence against women has grown in number because the offenders who are normally immediate family members of the victim pressurize the legal heirs to waive the punishment against compensation. The HRCP reported 612 honour killings in the year 2008. This law also contains a gender bias, in that if the legal heirs of the victim are insane or minors, the mother or the grandmother is not entitled to forgive⁷⁵.

⁷³ The News 'No Honour in Killing' (September 3, 2008)

⁷⁴ Owais Tohid, *Pakistan Outlaws "Honor" Killings*, Christian Sci. Monitor, January 20, 2005, available at <http://www.christiansciencemonitor.com/2005/0120/p06s01-wosc.html>.

⁷⁵ Section 313 Pakistan Penal Code

(2) If the victim-

(a) has no wali, the Government shall have the right of qisas; or (b) has no wali other than a minor or insane or one of the wali is a minor or insane, the father or if he is not alive the paternal grandfather of such wali shall have the right of qisas on his behalf:

Provided that, if the minor or insane wali has no father or paternal grandfather, how high-so-ever, alive and no guardian has been appointed by the Court, the Government shall have the right of qisas on his behalf. 64 'State of Human Rights in 2007' Human Rights Commission of Pakistan

3.3 Judicial Redress

In addition to the presence of discriminatory laws, the judicial environment is also very hostile for women. The uncongenial procedures and negative attitudes common in Pakistani court systems discourage many women from pursuing legal cases. The environment for women litigants is usually insolent and humiliating, their association with courts attaches a social stigma, and at times they even face violence from family members for attempting to acquire judicial redress.

Women have to face hostility from the first step of legal proceedings i.e. reporting to the police. Police generally condone or ignore cases of violence reported to them by women. According to a Daily Times report, citing a study conducted by a PHD student, only 38% of the rape cases are reported to the police, of which 10 to 18% of the cases are eventually withdrawn by the victim's family because of the 'unfriendly' attitude of the police officials⁷⁶. Pre-trial detention extends up to years for most women who are accused of such crimes, many of whom do not have the means to arrange for legal representation if the State fails to provide them with legal counsel. As a result, they remain confined for years before they get a chance to appear before any court of law. In one research, it was shown that out of 300 women confined in the special prison in Karachi, 40 were convicted whereas the rest were under trial prisoners⁷⁷.

In September 2008, the Sindh Government announced the establishment of separate courts for women. According to the official statement from the Sindh Assembly, female judges and female deputy superintendents would be recruited and all trial cases involving women would be transferred to this system. However, this has not taken any practical shape and remains a mere announcement till date⁷⁸.

3.4 Parallel Judicial Systems⁷⁹

The operation of traditional parallel judicial systems i.e. *jirgas* and *panchayats* in Pakistan have greatly encroached upon the rights of the weak and powerless women. These dispute resolution mechanisms claim to base their decisions on Islamic principles but are in fact largely influenced by social traditions. Such systems have developed as a cheaper alternative to the lengthy and expensive state-controlled judicial processes. According to a Situation Analysis Research conducted in two of the districts of the NWFP in 2006, 69% of the people of the Province rely on these parallel judicial systems for dispute resolution.

Ignorance of their legal rights has led many women to become the victim of the decisions of these judicial systems. These resolution forums use women as the price for a crime and, in cases

⁷⁶ '10 Percent Rape Victims Go for DNA' Test by Muzaffar Ali, Daily Times, October 8, 2007 <http://www.dailytimes.com.pk/default.asp?page=2007\10\08\story_8-10-2007_pg13_7>

⁷⁷ 'The Journal – Access to Justice' Justice (R) Nasir Aslam Zahid (2003) Page 62

⁷⁸ See supra fn. 56

⁷⁹ 'Judiciary as a Catalyst for Social Change' by Samar Minallah (Research Anthropologist) Executive Director, Ethno Media and Development <<http://www.supremecourt.gov.pk/web/subsites/scp50/Articles/9/2.pdf>>

of murder, the women of the aggressor's family are ordered to be married to the men of the bereaved family. This practice of using women as compensation is more commonly known as '*vani*' or '*swara*'.

In other cases, women are given inhuman punishments for honour crimes, justified by the decision makers to be divinely sanctioned punishments in accordance with Holy Quran. The recently release of the video showing the public flogging of a 17 year-old girl is evidence of the implementation of the decisions of these judicial systems (sources have confirmed that the video was not fake).

The existence of these systems is proof of the dominance of a patriarchal society in Pakistan over the egalitarian laws. "*Such customs or traditions are used to perpetuate the status quo, and for men to dominate women*"⁸⁰.

Positive (but not so effective) Legal Developments in Recent Years

President Pervaiz Musharraf issued the Criminal Law (Amendment Act) in 2004 according to which the age-old archaic custom of 'honour killings' was declared a criminal act and qualified as murder. The giving away of women in compensation (the practice of *vani*) was also declared illegal under the Amendment Act. However, the continuation of Qisas and Diyat Ordinance nullified the effect of this law and honour crimes continue to take place across the country.

The Women's Protection Bill was another step to restore the rights of women in the country and to grant some relief from the barbaric Hudood laws. On 15 November 2006, the Women's Protection Bill was passed as law in the national assembly of Pakistan, allowing rape to be prosecutable under civil law. However, the Amendment Act failed to address the fundamental problems of the Hudood Ordinance and was unable to provide the much-needed protection to women. Some notable features of this law are given below:

- a. The Amendment Act changed the complaint procedure of rape and adultery by making the district sessions courts and not the police responsible to receive complaints. This change has not facilitated women victims as the courts have limited hours of operation and locations as compared to local police stations, which are more accessible, especially for those in rural areas.
- b. The offence of sexual assault has been made bailable under the new law which in fact has the effect of providing the accused a chance to unduly influence the case and tamper with evidence.
- c. The evidentiary requirement of four witnesses remains intact which has been the biggest hurdle for women to pursue rape cases.

⁸⁰ Ibid.

The Human Rights Commissions refers to the Act, as “*farcical*,” saying that it does not address discrimination against women, in fact it creates confusion between Islamic and civil laws, and that it gives “*leeway to the judiciary to interpret the law in the most orthodox way*”. Furthermore, according to HRW, this Act also does not comply with many international standards laid down by CEDAW.

3.5 Social Exclusion of Women

Most of the urban and rural women in Pakistan are confined within the domestic boundaries of the home. The prevalence of extremist religious elements has adversely affected women’s empowerment, especially their mobility. According to the Pakistan Participatory Poverty Assessment (PPPA), even in metropolitan Karachi, women of Baldia Town felt that ‘religion’ and the issue of protecting their honour restricted their movement. The situation in FATA is even worse; women are not only unable to access health services but are now restrained from grazing cattle⁸¹. A study of women’s autonomy in rural Punjab reconfirms their limited mobility: ‘*The three dimensions to the problem are that they need to seek permission to go to certain places; restrictions on going alone to various places and the need to observe purdah.*’⁸²

Another factor that leads to the social exclusion of women is the fear of violence. As discussed in section 3.2 women are the prime targets of rape and honour killings and their vulnerability to violence greatly constrains their freedom of movement. Judiciary also provides no security for women and hence they have to be their own protectors.

Forced Marriages

There are innumerable reported cases of forced marriages in Pakistan. Such marriages take place under the realm of customary practice and no law has been made to deter it. The tribal customs of *vani/swara* where women are given away in marriage to settle disputes between two families/tribes is one of the severest violations of human rights.

Late in 2005, in an incident that stimulated public opinion against *vani*, three sisters in the village of Sultanwala, in Mianwali district, strongly opposed being victims of the *vani*, threatening they would commit collective suicide if married to men from a rival family under duress. These girls were subjected to *vani* 14 years ago in the settlement of a dispute involving their uncle, Mohammad Iqbal Khan, who had at the time killed his cousin and then gone into hiding to escape a death sentence. The tribal council agreed to set the offender free in exchange for five girls including these three sisters to be handed over as *vani*.

⁸¹ ‘*Gender and Poverty in Pakistan*’ by Khawar Riaz (2005)

⁸² ‘*Women’s Autonomy, Livelihood & Fertility; A study of rural Punjab*’ Sathar, Zeba A. and Shahnaz Kazi (1997), Islamabad PIDE

In 2005, the Supreme Court of Pakistan heard many cases against '*vani*', and in the end reached a milestone judgment in December in which it ordered police in the Punjab and the neighbouring NWFP to protect women given in marriage under the custom, which had already been declared illegal two years ago. The court made specific reference to the need to protect potential '*vani*' victims in Mianwali district, including the Khan sisters. However, according to Asma Jahangir (Advocate, Supreme Court), legislation alone does not deter old customs. Despite the judgment in favour of the Khan sisters, the opposing family continued to demand that the decision of the tribal council be enforced, insisting that the girls were already the wives of male members of their family.

This decision did not have a far-reaching effect and the practice continued to take place in the following years. To quote a recent example, in July 2008, two girls aged 10 and 12 were handed over as *vani* by a tribal *jirga* (court) in Shikarpur. These girls were used to settle a dispute between two families. The tribal council even supervised the *nikah* (wedding) ceremony to ensure that their decision was being followed through.

The existence of a parallel judicial system, despite being legally banned, is the biggest source of violence against women. The State has failed to curb them and the cases of *vani*, *swara*, *karo kari* (honour killings) continue to rise over the years.

3.6 Education

The majority of the women in Pakistan reside in rural areas where accessibility to educational institutes is minimal. The number of female students continues to fall as we go up from primary to degree level and the gap between the number of males and females also continues to rise (see table 6 below). In the rural areas, the number of females that enter school after primary school is almost half of that of men. Male-dominated structures are relatively stronger in the rural and tribal settings where local customs and indigenous laws establish male power over women. Many reasons, primarily religious, constrain parents from educating their daughters and this trend has seriously hampered the integration of women in the development activities of the country.

The patriarchal values embedded in the society leave only a reproductive role for the women whereas men act as the breadwinners who interact with the outer world. Most women are ignorant of their legal, political and human rights as they remain within the narrow confines of their home. They become victims of sexual crimes due to their vulnerability and they are unable to defend themselves as they are not aware of the rights they possess⁸³. The UN Human Development Index (2006-2007) has focused on the provision of opportunities for Pakistani women in all fields of life and the creation of a just and safe environment in terms of legal and human rights.

⁸³ '*Gender Issues in Higher Education in Pakistan*' Professor Saeeda Asadullah Khan (November 2007)

Table 6: Education by Gender in Pakistan

Stage	Urban			Rural			Total		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
Pre-Primary	1,221,417	1,102,554	2,323,971	2,728,064	2,083,412	4,811,476	3,949,481	3,949,481	7,135,447
Primary	3,031,550	2,746,433	5,777,983	6,515,079	4,541,355	11,056,434	9,546,629	7,287,788	16,834,417
Middle	1,307,405	1,168,069	2,475,474	1,785,908	1,000,941	2,786,849	3,093,313	2,169,010	5,262,323
High	654,848	608,461	1,263,309	596,210	273,489	869,699	1,251,058	881,950	2,133,008
Higher Sec.	330,422	381,761	712,183	95,310	46,042	141,352	425,732	427,803	853,535
Degree	112,598	188,769	301,367	15,187	9,439	24,626	127,785	198,208	325,993
Total	6,658,240	6,196,047	12,854,287	11,735,758	7,954,678	19,690,436	18,393,998	14,150,725	32,544,723

Source: *Enrolment by Stage, Gender and Location, 2005–2006, Ministry of Education of Pakistan*
<http://www.moe.gov.pk/Enrolment%20by%20Stage,%20Gender%20and%20Location%202005-06T5.pdf>

The Shadow Report⁸⁴ on the implementation of CEDAW in Pakistan revealed that “*Pakistan has an extremely low female literacy rate with higher drop-out rates among girls before completing primary education. The social norms and practices prefer boys over girls for better education...*”

Women acquiring education is considered un-Islamic by many orthodox Muslims especially the Taliban. The re-emergence of the Taliban in the northern areas has greatly threatened female education. Scores of schools have been blown up in the recent past in the restive parts of Pakistan’s NWFP and FATA as the Taliban seek to impose a radical Islam and challenge the authority of the government. Maulana Fazlullah, a Taliban commander, began a vicious campaign against education of girls in 2006. “*Girls’ education leads to obscenity and vulgarity in the society. This is a conspiracy of the United States and other ‘infidel’ nations to deviate our younger generations from the right path of Islam,*” he said in one of his many radio sermons, which can be heard within a 40-kilometer radius of his base of operations⁸⁵. Earlier last year the Taliban imposed a ban on female education and announced the closure of all female schools by 15 January 2009, as they did not abide by Islamic teachings. Almost 40,000 girls have been deprived of schooling because of the imposition of this ban⁸⁶. They objected to girls attending school without covering themselves properly or observing *purdah*⁸⁷ and believed the curriculum being taught is too westernized and only religious education should be imparted to girls⁸⁸.

⁸⁴ 2007 report.

⁸⁵ ‘*Taliban Violently Campaigns Against Girls’ Education in Northwest Pakistan*’ PeaceWomen – Women’s International League for Peace and Freedom (August 27 2008)
http://www.peacewomen.org/news/MiddleEast/Augusto8/Pakist_GirlsEducation.html

⁸⁶ ‘*Taliban ban to keep 40,000 girls from schools in Swat*’ Daily Times (December 26 2008)
http://www.dailytimes.com.pk/default.asp?page=2008\12\26\story_26-12-2008_pg7_3

⁸⁷ *Purdah* is an Islamic custom that involves the seclusion of women from public observation by means of concealing clothing (including the veil) and by the use of high-walled enclosures, screens, and curtains within the home.

⁸⁸ However, Maulana Fazlullah, chief of Tehrik-e-Taliban Pakistan (TTP) Swat chapter, announced relaxation in the ban on girls’ education by end January, allowing students to attend school up-to fourth grade. The News (January 31, 2009)

Curriculum Promoting Gender-Biased Stereotypes

The content of school textbooks portrays women as subordinate to men and that the only legitimate role of women in the society is linked to the wellbeing of the home and the family. While this role may be acceptable to many women, it creates a negative image in the mind of the students regarding a woman not fully performing this role or who enters professional life.

Also, there are absolutely no references to human rights issues in the Social Studies or Pakistan Studies syllabi. Issues such as honour killings and *vani* are not dealt with at all in the relevant textbooks. Consequently, students gain no insight into the real problems plaguing society. Such ignorance is one of the factors contributing to the increased violence and oppression of women.

3.7 Women and Media

Portrayal of Women in Media

Bias against women in the field of media is widespread and this has been a major roadblock in the development of women in Pakistan. Media continues to portray stereotype images of women and through its programmes projects the systematic oppression of women by men.

Media has largely focused on the sex appeal or physical beauty of women and has displayed women as a wife or a mother or as a shy, vulnerable, suffering woman, or as someone meant exclusively to stay within the confines of the home. Even though women form almost half of the population of Pakistan, television seems to hold up a dominantly masculine or patriarchal image of society. Working or financially independent women are portrayed in a negative manner in the media and the attributes of power and aggressiveness are shown as unnatural for women since they challenge the male ego.

Media is seen as a reflection of society and the objectification of women in media has constantly infuriated extremist groups around the country. Even though men are the real policy makers for the media, women have had to face the brunt of their chauvinistic mindset. The Taliban and MMA activists, whose influence continues to grow in the NWFP, consider the display of women to be 'un-Islamic', and have been issuing threats that if this practice is not stopped they will have to face bombing⁸⁹. Women appearing on billboards have also always been greatly condemned by extremist elements. Hundreds of billboards have been destroyed and women's faces on billboards have been painted black, particularly in the province of NWFP. These actions have been endorsed by the government in NWFP which hold the view that such signs spread obscenity in society and "*they do not reflect well on an Islamic and Pakhtun society*".

<http://www.thenews.com.pk/top_story_detail.asp?Id=19998>

⁸⁹ Daily Times 'Billboard Featuring Women Reappear in Peshawar' (July 25, 2009) <http://www.dailytimes.com.pk/default.asp?page=2009\04\27\story_27-4-2009_pg7_30>

Women's Employment in Media

The ratio of male to female workers in media tilts hugely in favour of men. This difference can be attributed to the reluctance of women to join the media due to the objectification of women in media, sexual harassment of women in the workplace and low hiring rates. The working environment is not congenial for women and working for long hours has become a social stigma.

Even though the media was liberated during Zulfikar Ali Bhutto's regime, Zia-ul-Haq's Islamisation policies hugely curtailed women's participation in the media. However, women once again began appearing in television during Pervez Musharraf's era under his slogan of 'enlightened moderation'. Today the after-effects of his philosophy have surfaced in the form of a re-activated Taliban and extremist elements in society. The re-emergence of Taliban has threatened women journalists and reporters, especially those working in war-ridden areas. In April 2009, two women journalists, from a private television channel, were warned that their hair would be shaved off if they appeared on the small screen again and they have not been seen on television since then.⁹⁰

4. Case Studies

The following two case studies have been examined to illustrate some of the underlying reasons for the existence of religious extremism and militancy in Pakistan. The recent upsurge of *talibanization* in Pakistan is not a new phenomenon but has a history directly linked to inappropriate policies of the former dictators of Pakistan.

4.1 Red Mosque Siege (*Lal Masjid*)

The Red Mosque was a religious school for both men and women, located in Islamabad, the capital city of Pakistan. It had a reputation for radicalism and largely attracted students from the NWFP and tribal areas. Students were taught to protect their religion by use of force and trained to wage holy war against those who strayed from the teachings of Islam. The Mosque was greatly supported by the former army dictator General Zia-ul-Haq and during his regime, it trained and recruited many *mujahideen*⁹¹ who joined the Islamic extremist Taliban in Afghanistan in their resistance against the former Soviet Union occupation of Afghanistan. Over ten years of this support to the Taliban in Afghanistan imported a gun culture and religious radicalism into Pakistan via the migration of four million Afghan refugees into Pakistan. The Mosque was in fact training its students for war and violence in the garb of religious education.

⁹⁰ Dawn 'Media's Greatest Challenge' (May 3 2009)
<<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/16-media-s-greatest-challenge-hs-14>>

⁹¹ *Mujahideen* is an Arabic term to describe persons involved in *jihad* or holy war.

Many years later, during the regime of General Pervaiz Musharaff, Pakistan was asked to support the US-led operation in Afghanistan in the wake of 11 September 2001 attacks. In sharp contrast to Zia's policies, Musharaff agreed to offer America his full fledge support; this time Pakistan was part of a war against the Taliban. The Lal Masjid leaders openly condemned the war but denied its links with any terrorist organizations. Their leader Abdul Aziz even issued a *fatwa* in 2005 declaring that no Pakistani Army officer could be given an Islamic burial if he died fighting the Taliban, after which he was removed as the leader of the Mosque; but hundreds had already been trained to foster a similar mindset.

A large number of students at the Mosque came from the tribal areas hence the link between the mosque and the northern area could not be denied. The radical mindset gained impetus, especially in light of Musharaff's idea of creating 'enlightened moderation'⁹² in Pakistan and his support to the war on terror against the Taliban. In 2007, students took to the streets to check on the 'un-Islamic' practices taking place in the city, as part of their campaign to impose Sharia⁹³ law in Pakistan. Music shops were attacked, police were kidnapped and *fatwas* were issued to coerce the media. The head of the mosque threatened suicide attacks if Sharia law was not imposed and if the Mosque was harmed in any way. The government attempted to resolve the matter through talks with radicals in the mosque but these broke down after a weeklong standoff. At the beginning of July in 2007, Pakistani troops stormed the building and the mosque was the scene of a bloody siege that ended with the deaths of more than hundred people.

It is commonly believed that the consequences of the Lal Masjid siege will be seen for years to come. It only subdued the extremist elements temporarily and the reactionary outbursts can be seen in the countless suicide attacks around the country and the uprising of the Taliban in the north. The leader of the Mosque was also released on bail recently and his release has coincided with the appearance of militant motivational literature and propaganda videos outside Lal Masjid⁹⁴. The intensity of religious and sectarian divisions is relentlessly becoming stronger in the aftermath of the siege and the confusion and cycle of violence continues to gather momentum⁹⁵.

⁹² This was a strategy enunciated by President Pervaiz Musharaff to be implemented in Pakistan to discourage religious extremism and militancy. He described it in the following in one of his public addresses in 2004 *"It is a two-pronged strategy. The first part is for the Muslim world to shun militancy and extremism and adopt the path of socioeconomic upliftment. The second is for the West, and the United States in particular, to seek to resolve all political disputes with justice and to aid in the socioeconomic betterment of the deprived Muslim world"*.

'A Plea for Enlightened Moderation' by Pervaiz Musharaff (June 1 2004) <<http://www.washingtonpost.com/wp-dyn/articles/A5081-2004May31.html>>

⁹³ Sharia refers to the legal framework within which the public and private aspects of life are regulated for those living in a legal system based on Islamic principles of jurisprudence and for Muslims living outside the domain.

⁹⁴ Dawn News 'Jihadi literature available once more outside Lal Masjid' (Friday, April 17, 2009) <<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/news/pakistan/jihadi-literature-available-once-more-outside-lal-masjid-il>>

⁹⁵ *'The Road to Lal Masjid and its Aftermath'* by Hassan Abbas, Terrorism Monitor Volume: 5 Issue: 14 <[http://www.jamestown.org/single?no_cache=1&tx_ttnews\[tt_news\]=4322](http://www.jamestown.org/single?no_cache=1&tx_ttnews[tt_news]=4322)>

4.2 Swat Offensive - Resurgence of the Taliban

The demand for the imposition of Sharia law in the Malakand Region of Pakistan (NWFP) has turned the area into a battleground. Despite repeated attempts of the State to establish truce through peace deals, they have failed to strike a chord with the religious leaders.

A Brief History⁹⁶

In the late 1980s, Sufi Muhammad, an activist of Jamat-i-Islami⁹⁷, initiated the 'Movement for the Enforcement of Islamic Law' (Tehrik-e-Nifaz-e-Shariat Mohammadi - TNSM) in the Malakand Region (comprising of Malakand, Swat and Chitral) of NWFP. One of the first demands of the TNSM was the introduction of Sharia law in the Malakand Division. This was not a mere demand and after receiving no response from the government, the leader of the TNSM declared Sharia law in region on his own initiative. Subsequently, the government sent in paramilitary troops in order to attain control of the area but eventually had to strike a peace deal with Sufi Muhammad. The government agreed to impose Islamic law in the Malakand Division, but after only a brief period of peace Sufi Muhammad decided to declare the imposition defective and proceeded with his violent struggle for the imposition of Sharia law in its true spirit. However, his struggle slowed its pace in light of the ongoing wars in Kashmir and Afghanistan but the lack of proper implementation of the writ of government of Pakistan in Malakand division, its failure in providing fast and cheap justice to people and a deteriorating local law and order situation made sure that the TNSM never faced a dearth of followers.

It was in the wake of the 11 September 2001 attacks that attention was once again diverted to the activities of the TNSM. Sufi Mohammad by then was openly recruiting people to go to Afghanistan to fight the US-led forces. President Musharaff banned the TNSM in 2002 and Sufi Muhammad was convicted to seven years of imprisonment. Some of his followers joined another extremist group called Tehrik-e-Taliban Pakistan (Movement of the Taliban of Pakistan – TTP)⁹⁸ which was, at that point in time, operating from Orakzai agency. However, the son of Sufi Muhammad began restructuring the TNSM shortly after his arrest and started preaching in favour of militant Islam through the illegal FM radios operating in the NWFP. The government, however, chose to ignore his activities. When the earthquake shook the northern areas of Pakistan in 2005, the followers of the Movement seized the opportunity and took part in extensive relief efforts. They also started propagating the idea that the calamity

⁹⁶ 'Insurgency in Swat – An Analysis' by Abdullah Asad < <http://abdullahsaad.com/180-insurgency-in-swat-an-analysis>>

⁹⁷ Jamaat-e-Islami is an extremist Islamic political party that was founded by Sayyid Abul Ala Maududi on 26 August 1941 in Lahore, Pakistan and is the oldest religious party in Pakistan.

⁹⁸ Background of TTP: Mullah Omer started his Taliban movement (TTP) with less than 50 madrassah students and after the fall of Kandahar, thousands from Pakistani madrassahs rushed to join the new force and by December 1994 he had a force of 12,000. A new phenomenon had been created in Pashtun society – that of madrassah students and mullahs, with guns in their hands, ruling the Pashtuns. In Pashtun society no clear role is defined for religious functionaries in the social system. Government officials posted in these areas and the Maliks/Khans are considered leaders, who get legitimacy from the authority they exercise on behalf of the State, with religious functionaries given a limited role of dealing with rituals". The News 'Nizam-e-Adl – What Next for Taliban?' (February 17, 2009) < http://www.thenews.com.pk/daily_detail.asp?id=163004>

had hit the region because the people had drifted away from Islam, which appealed to the largely uneducated locals of the area. The TNSM gathered momentum in the aftermath of the earthquake. MMA⁹⁹ surrendered before the movement and TNSM took over the law and order situation of the area, securing physical control of police stations, government offices and even the Saidu Sharif airport. The MMA did not turn to the government for help but realizing the gravity of the situation the government intervened on its own initiative and permanently deployed the army in the Malakand region. The army fought in the area for about a year and a half during which hundreds of militants were killed, caught or jailed.

After the elections of 2008, ANP¹⁰⁰ formed the government in the region, which once again proved to be extremely favourable for TNSM. Firstly, ANP put an end to the military operation underway in the region and secondly, they released all of their members from Pakistani jails, prior to the start of peace talks. Despite their cooperation, TNSM threatened ANP to give up their role in the government and killed a few of their party members to build pressure. The TNSM's real intentions were hard to decipher given their conflicting actions, whether their struggle was for upholding the sanctity of religion or to acquire greater control and power.

Current Situation

Earlier in 2009, another attempt was made by the government to reconcile with the Taliban. After much deliberation in the National Assembly, President Zardari issued the Nizam-i-Adl Regulation putting an end to 18 months of terror and bloody clashes that left hundreds dead and forced up to one-third of the previously prosperous valley's 1.5 million residents to flee. This was an attempt to meet the demands of the Taliban to impose Sharia law in the region in exchange for a ceasefire.

However, the continued violence and atrocities even after the signing of the Regulation, evidenced the fact that the present *talibanisation* was not just a movement for enforcement of Sharia but rather that it was a struggle to acquire power, authority and a defined role in decision making in the social system of Pashtun society. The peace deal was unable to fulfil the goal as envisaged by the Taliban and hence they soon withdrew from it. They continued with brutal acts of violence in the name of Islam, completely disregarding the peace deal. They even gradually began seeping in to the capital city and adjoining areas with constant threats to spread even further. Having realized the urgency of the situation and being unable to curb the uncontrollable force of Taliban, the government in May 2009 deployed the army in the Swat region yet again to fight the Taliban, as dialogue had failed to achieve the desired results. The war currently proceeds in the NWFP and over 1.5 million people have been displaced till date.

⁹⁹ Mutahidda Majlis e Amal – The combined platform of religious-political parties of Pakistan, which formed the government in NWFP from 2002 to 2007

¹⁰⁰ The Awami National Party (ANP, Awami meaning People) is a nationalist political party (leftist) in Pakistan. The Party is mostly famous among the Pashtuns of Pakistan in NWFP, Balochistan, Federally Administered Tribal Areas, Western Punjab, and Northern Areas. <www.elections.com.pk/partydetails.php?id=1>

Government's Perspective

The government perspective on the issue seems alarmingly different. According to an MNA (member of the National Assembly) belonging to ANP, the intensity of discrimination in NWFP against women and religion minorities is the same as in other areas of the country. The Pashtuns are laden with economic problems and their current activities in the region are a reaction to government negligence of their problems. Most of them send their children to *madaris* not to inculcate conservative religious thinking but because they cost much less than schools offering formal education.

She emphasized that the religious minorities are free to practice their religion and that in fact during the partition of the subcontinent a large portion of Hindus and Sikhs migrating to Pakistan were given refuge by these Pashtuns¹⁰¹. The MNA added that the people of this area keep religion separate from their social and cultural ideologies and it is the media and other external factors that have created a negative image of the NWFP, which does not resemble the actual state of affairs of the region.

5. Recommendations

This study has focused on two vulnerable groups of Pakistani society, namely women and religious minorities, who are exploited in the name of religion and suffer from religiously motivated violence and effects of militancy. It is hard to decipher whether proliferation of such violence is the result of actions of extremists acting out of religious devotion or is it a strategy of the superpowers to gain control of the world by agitating the religious sensitivities of nations. One of the major facts that lean in favour of the latter possibility is the questionable source of the vast resources available to the Taliban and extremist groups as the advanced weaponry and continuous inflow of finances is hard to acquire in a poor country like Pakistan without foreign support.

Whatever the reasons might be, the discrimination and violence needs to be stopped and the following recommendations are a few possible ways to move towards this direction.

5.1 Legal

All those concerned with the issue of exploitation of the two afore-mentioned groups at the hands of the majority have persistently stressed the need for a strong judiciary and a legal framework in order to eradicate discrimination that leads to violence and promotes militancy. In order to build a modern progressive society that is just and fair to all its citizens, the government of Pakistan must take steps to review and where necessary amend and/or repeal provisions of the Constitution and statutory laws that discriminate against religious minorities and are not only a source of victimization and harassment but which also sow seeds of communal disharmony.

¹⁰¹ Pashtuns (or Pathans) are the main ethnic group of Afghanistan. Nearly all Taliban belong to this ethnicity.

Various laws have been identified in this study that nurture much of the discrimination occurring in the country. These laws have been reiterated below with possible amendments that should be incorporated within the laws and within judicial attitudes.

- The blasphemy laws have been the root cause of a major chunk of religiously motivated violence in Pakistan. Before the new provisions regarding blasphemy were introduced in the PPC, almost no case of blasphemy was reported. The introduction of a series of amendments to the blasphemy laws in the PPC, section 295-B, added in 1982, which provides for mandatory life imprisonment for desecrating the Quran, and in 1986 the even harsher section 295-C which mandates the death penalty for using derogatory remarks for the Prophet (pbuh) have resulted in the rampant growth of religious intolerance and must be abolished.
- The National Commission of Justice and Peace has recommended the complete repeal of the blasphemy laws and formation of an inquiry commission to immediately assess the impact of these laws in the country and report it to the Parliament.
- The law of evidence i.e. Qanun-e-Shahadat Order 1884 also needs to be amended in line with progressiveness of the society. Women are now more economically active than ever before in the history of Pakistan and in all professional fields, hence the testimony of women must be accepted in the court without the need for a second woman witness to corroborate her evidence. Islam is a progressive religion with the unique quality of developing with time through consensus of Muslim scholars on issues inherent to different times. When this law was laid down in the Quran, women were not professionals whereas in today's age the role of women is substantially different.
- Furthermore, under this law the evidence of non-Muslims is not weighed equally to that of Muslim in cases that are governed by Islamic law. This section of the law must be revised in light of the ground realities and the needs of the society because such laws have unjust implications.
- The Islamic laws imposed in Pakistan by the name of Hudood Laws need to be made less stringent to facilitate victims of rape and homicide. Amendments should be brought in at two levels:
 - a. The requirement of four witnesses for the crime of rape must be removed and the distinction between adultery and rape should be expressly stated in the law so that both the woman and man are held responsible in cases of adultery. The testimony of non-Muslim witness should also be deemed acceptable in the court of law to prevent any grave injustice to a rape victim.
 - b. The *Hudd* punishments should be confined for Muslims only as these punishments are derived from Quranic text and are not applicable to persons belonging to other faiths.

Performance of the EPTB

The performance of the EPTB is far from satisfactory in protecting the religious sites of minorities and other heritage sites. The responsibilities of the Board must be reframed with the federal government periodically reviewing its activities to prevent any misconduct. It is also important that there be adequate representation on the Board of the members of different religious communities¹⁰² to ensure justice is served.

5.2 Policy Measures

a. Education Policy

In the words of Pervaiz Hoodbhoy¹⁰³, the government-approved curriculum being used in the school systems all over Pakistan is “*a blueprint for a religious fascist State*”¹⁰⁴. To change this impression, the educational policy and curriculum must be revised to remove all biases existing against religious minorities. The policy should be redrafted to cater to a multi-religious society. The teaching style and content of textbooks must focus on the intellectual progression of the students that will allow them to think critically.

The religious schools (*madaris*) need to undergo reform the most. Monitoring mechanisms should be developed to regulate what is being taught in these schools. Any teaching material that promotes or validates the waging of holy war, suicide bombings, subjugation of women and religious minorities and anti-west propaganda must be banned.

An independent, non-partisan public-private education agency should be created that could monitor public education and coordinate federal, provincial and local efforts to remove religious and ethnic hate material from the national curriculum¹⁰⁵.

In addition, all gender-based stereotypes that portray women as subordinate to men in textbooks should be eliminated. Human rights should be taught as a subject at all levels to create awareness on issues inherent to Pakistan such as honour killings, unjust tribal customs, forced marriages etc.

Higher education should be more accessible to both minorities and women. Universities should not make admission decisions based on the religion or gender of the candidate but rather on the credentials alone.

¹⁰² See supra fn.6

¹⁰³ Dr. Pervaiz Hoodbhoy has been the faculty member of the Department of Physics at Quaid-i-Azam University since 1983. He is the chairman of Mashal, a non-profit organization that publishes books in Urdu on women's rights, education, environmental issues, philosophy and modern thought. Dr. Hoodbhoy has spoken extensively on topics ranging from Islam and education issues in Pakistan and nuclear disarmament.

¹⁰⁴ See supra fn. 16

¹⁰⁵ See supra fn. 21

b. Media Policy

It is essential that the media is released from the governmental control and from the undue pressure of religious groups. Outside of the subjection of the media to a set code of conduct or professional ethics, all forms of influence and pressure on its policies, broadcasts and print material should be declared illegal and void. The keyword for any form of media is 'neutrality', which essentially means presenting the objective picture before its readers or audience. In Pakistan, media should cease to become a platform for religious hate speech or to flaunt male prowess.

Media possesses great power over the masses and only an independent and neutral media can help the masses form opinions and make informed choices. The media should depict the reality and equal coverage needs to be given in media to all segments of the society, particularly the often-neglected religious minorities. Due to the ongoing struggle of human right activists, women's issues are more openly discussed in today's print and audio/visual media but the real emancipation of media will be shown when they begin to project the issues facing the religious minorities. Lack of security of journalists and reporters is one of the deterrents for the media to raise religion-sensitive issues. A number of journalists have become victims of religiously motivated violence in the recent past.

c. Other Policies

- The rule of sentence remission for the inmates in jail that have memorized the Holy Quran should be removed or similar rules should be enforced for inmates belonging to other faiths in all provinces.
- Addition of 20 marks to the original score of candidates who have memorized the Holy Quran, as per the internal policy of different universities, should be disallowed or a parallel award system should exist for non-Muslim candidates.
- The job quota for non-Muslims in the public sector must be increased for the economic welfare of the minorities especially the scheduled caste. The government should ensure they are adequately represented in all government services, especially the armed forces, superior civil services and judiciary. According to a Joint NGO Report to the UN Committee on CERD¹⁰⁶, the Government should retain the 6% job quota for religious minorities and scheduled castes in government services, as kept before 1998 and a monitoring body should be established to monitor the implementation of the quota.

¹⁰⁶ See supra fn.6

- The illegal FM radios operating in NWFP that are spreading hate material against women and minorities must be immediately shut down.

Training of Government Officials – Police and Judiciary

There is widespread ignorance of the law amongst the judiciary and police in Pakistan -- the two key players in the justice system of any country. They address issues of minorities and women based on their preconceived notions, which are in most cases inappropriate and negative. The general outlook of the judiciary has to undergo change through training and advocacy; the police and judges eye women and members of religious minorities as culprits from the moment a complaint is filed and societal pressures discourage them from reaching just decisions in their cases.

A series of state-sponsored training workshops should be held around the country for all government officials. The focus of these workshops would be on the rights and laws regarding religious minorities and women. The aim would be to increase sensitization of these officials towards the issues faced by minorities and women so that they are better equipped to handle the gross injustices that take place against these two oppressed groups on a daily basis.

5.3 Advocacy and Awareness of Legal Rights

Advocacy for Religious Minorities

Many speak for the rights of women but only a few raise voices for the welfare of minorities, particularly the Muslims. Civil society and human right activists, primarily belonging to the Islamic faith, should stand up for the protection of minorities and become a support system for them. The extremist elements carrying out atrocities against minorities in the name of religion will only weaken once those who accept Pakistan as a multi-religious society take collective action.

Awareness of Legal Rights

Lack of awareness of the fundamental rights as guaranteed by the Constitution, in both the rural and urban areas, has remained a major impediment towards the development and empowerment of women and religious minorities. With the low literacy rate, many cannot read about their rights through books or newspapers, hence they need to be taught about their rights through oral advocacy by lawyers, civil society, human rights activists and most importantly by state appointed officials.

5.4 Political Representation

Non-Muslims should be given adequate political representation. In fact, as in the case of women, a greater number of seats must be reserved for religious minorities in the national and provincial assemblies. All the assemblies have a 33 representation for women, but do not include women belonging to the minorities. Furthermore, no seats for minorities are reserved in the Senate. Federal Minister for Minority Affairs Shahbaz Bhatti has been reported to have said that a draft of a bill granting reserved seats in the Senate to minorities has been finalized and would soon be presented in the National Assembly¹⁰⁷.

6. Conclusion

The primary aim of the study has been to highlight, with the help of statistics and incidents, the way religion is exploited and used against women and minorities in Pakistan. The growth of militarism, resurgence of Taliban and the general extremist direction that Pakistani Muslims are headed towards has added impetus to the already widespread religiously motivated violence. The State has done little to discourage the misuse of religion by majority and in fact the policies and laws of the State have provided a favourable environment for terrorist activities to flourish.

One aspect of this situation can be explained in light of the widespread poverty and deteriorating economic condition of Pakistan. Disenfranchisement of a substantial part of a society because of poverty has encouraged extremist and terrorist activities. Other factors that have led to the misuse of religion by the majority include lack of education, unequal treatment of citizens and the corrupt political set-up. There is an increasing clash between the deprived and more affluent in the society – affluence in terms of physical strength, religious majority or political power and not necessarily financial power.

Any positive conclusion to this study will seem idealistic given the current situation in Pakistan. The positive developments in recent years have also been highlighted in the study but they seem insignificant before the plethora of discriminatory laws, policies and social practices existing in the country. Pakistan is fast moving towards theocracy and this can only be controlled if the government abandons preferential treatment of Muslims and instead adopts a collectivist approach, treating all its citizens equally as Pakistanis and removing all religious barriers.

¹⁰⁷ See supra fn. 13

Main References ¹⁰⁸

1. Human Rights Commission of Pakistan, '*State of Human Rights*' Annual Reports 2003-2008
2. '*Discrimination Lingers On*' – CEDAW Shadow Report 2007 (Submitted by National Commission of Justice and Peace and Democratic Commission for Human Development)
3. '*A Report on the Religious Minorities in Pakistan*' - Human Rights Monitor 2008 (Publication of National Justice and Peace)
4. '*A Memorandum of Law and Policy Reforms – Protection and Promotion of the Rights of Religious Minorities in Pakistan*' (Addressed to the Federal Ministry of Human Rights on Behalf of Civil Society and Church based Organizations through National Commission of Justice and Peace, dated January 16, 2009)
5. '*The Choice of Reforms: The human rights situation of ethnic, linguistic, religious minorities, scheduled castes Hindus and indigenous people in Pakistan*' (Joint NGO report to the UN Committee on the Elimination of Racial Discrimination (CERD) for the examination of the 15th-20th periodic reports of Pakistan at the 74th CERD session in February 2009)
6. Newspaper Archives - The News, Daily Times, Dawn (Pakistan)

¹⁰⁸ Sources of all reference material used in for this study are cited as footnotes throughout the report. These references form the main part of the literature review conducted for this study.

ANNEXURE A

Source: 'The Root of Extremism in Pakistan' Pervaiz Hoodbhoy



"Alif" (A) for Allah



"Bay" (B) for *bندوق* (gun)



ٹکراؤ (ٹ-ک-را-ؤ)



ٹوپی (ٹ-و-پ-ی)

"Tay" is for *takrao* (collision) and "topi" (cap)



“Jeem” is for jihad



“Khay” is for khunjar (dagger)



“Hay” is for hijab



“Zal” is for zumoob (an unfamiliar word even for native Urdu speakers, means sins). Note that even traditional

ANNEXURE B

PAKISTAN PENAL CODE 1860 CHAPTER XV OF OFFENCES RELATING TO RELIGION

295. Injuring or defiling place of worship, with Intent to insult the religion of any class:

Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction damage or defilement as an insult to their religion. shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

295-A. Deliberate and malicious acts Intended to outrage religious feelings of any class by insulting Its religion or religious beliefs:

Whoever, with deliberate and malicious intention of outraging the 'religious feelings of any class of the citizens of Pakistan, by words, either spoken or written, or by visible representations insults the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

(Sec. 295-A ins. by the Criminal Law (Amendment) Act, XXV of 1927.)

295-B. Defiling, etc., of Holy Qur'an:

Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

(Sec. 295-B added by P.P.C. (Amendment) Ordinance, I of 1982.)

295-C. Use of derogatory remarks, etc., in respect of the Holy Prophet:

Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.

298-B. Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places:

- (1) Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmedis’ or by any other name who by words, either spoken or written, or by visible representation-
 - (a) refers to or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as “Ameer-ul-Mumineen”, “Khalifatul-Mumineen”, “Khalifa-tul-Muslimeen”, “Sahaabi” or “Razi Allah Anho”;
 - (b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as “Ummul-Mumineen”;
 - (c) refers to, or addresses, any person, other than a member of the family “Ahle-bait” of the Holy Prophet Muhammad (peace be upon him), as “Ahle-baft”; or
 - (d) refers to, or names, or calls, his place of worship a “Masjid”; shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
- (2) Any person of the Qadiani group or Lahori group (who call themselves “Ahmedis” or by any other name) who by words, either spoken or written, or by visible representation refers to the mode or form of call to prayers followed by his faith as “Azan”, or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(Sec. 298-B ins. by Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmedis (Prohibition and Punishment) Ordinance, XX of 1984)

298-C. Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith:

Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmedis’ or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(Sec. 298-C ins. by the Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmedis (Prohibition and Punishment) Ordinance, XX of 1984.)

SRI LANKA

1. Introduction

Since its introduction to Sri Lanka in the 3rd Century BCE, Buddhism has become the religion of the majority Sinhalese community. According to the 1981 census 69.3% of the population claimed to be Buddhists, all belonging to the Sinhalese community which constitute approximately 74% of the population. Sri Lankan Tamils comprise 12%, Indian Tamils 5.5% and Muslims 7% of the population.¹ The majority of Tamils are Hindus while Muslims are adherents of Islam. There is a small percentage of Christians who are both Sinhalese and Tamil.

Despite its teachings of universalism, tolerance, respect for pluralism, compassion and non-violence, Buddhism in Sri Lanka is heavily linked to the identity formation of the majority Sinhalese community in opposition to minority communities. Buddhism became fused with the Sinhala race and the Sinhala language in the articulation of a hegemonic ideology to assure for the majority Sinhalese Buddhists, social, political and economic dominance following the attainment of independence in 1948. This ideology has been one factor at the root of discrimination against minority communities in Sri Lanka and its ultimate manifestation in the ethnic conflict between the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE).²

Behind this ideology of Sinhala Buddhist identity formation is the belief that Sri Lanka is the sacred land of Sinhalese Buddhists where Buddhism in its pristine form has survived, and that Sinhalese are the designated protectors of Buddhism. All other ethnic and religious minorities are considered outsiders. The *Mahavamsa* written by Buddhist monks in the 6th century is the key historical text that is relied upon to make this claim. Fears about the extinction of the Sinhala race, the endangered status of Buddhism, and fears of the physical division of the country resonate deeply within the Sinhala psyche. This ideology is reproduced and propagated through many different means including the education system and the print and electronic media.

¹ These statistics are from the Census of Housing and Population conducted in 1981. The most recent census taken in 2001 did not cover LTTE held areas in the North and East of the country.

² The ethnic conflict in Sri Lanka is however symbolic of a crisis or failure in Sinhala-Buddhist hegemony as the Tamil minority refused to be ruled by consent in the Gramscian sense.

Some of the *sangha* or Buddhist clergy in Sri Lanka, in contradiction to the popular image of the Buddhist monk as a world renouncer in search of moral and spiritual perfection has emerged as an active agent of social mobilisation and an active participant in electoral politics, including to protect Buddhism in Sri Lanka, in defence of 'war' to solve the ethnic conflict, and as proponents of anti Christian, anti Muslim and anti foreign /Non Government Organization (NGO) rhetoric and violence.

Political leaders have exploited this 'Sinhala-Buddhist Consciousness' in order to come into power by privileging the majority community and taking an anti minority stance (Richardson 2005, Devotta 2007). Political leaders who have tried to go against the grain to address minority grievances in a meaningful way have been undermined and scuttled by opposition parties who have easily mobilised public protest against such reforms.

This paper³ does not intend to rehearse the history of Buddhism in Sri Lanka, which has been amply done elsewhere (See Malalgoda 1976, Phadnis 1976). Instead, it will first seek to highlight certain historical, religious and political factors which contributed to the ethnicisation/Sinhalisation and politicisation of Buddhism in Sri Lanka and the emergence of 'Sinhalese-Buddhism' which reshaped the terms of the political debate in the post-independent period, and the role it played in shaping post-colonial state and nation formation. Secondly, the paper will explore the appropriation of state institutions by Sinhala-Buddhist nationalists, and the manifestations of Sinhala-Buddhist ideology in government policies, programmes and judicial decisions in a way that was discriminatory and oppressive of the minority communities. Thirdly, the paper will look at the role played by two key institutions – the media and the education system in reproducing and propagating 'Sinhala-Buddhist' ideology. Fourthly, the paper will look at the periodic eruption of collective violence against 'un-Sinhala' and 'un-Buddhist' elements of Sri Lankan society seemingly with tacit consent of some regimes.

Although it is not the focus of this paper, it should also be noted that there have been movements to reform Buddhism and to present Buddhism, not as an exclusive Sinhala Buddhist project, but as a set of universal beliefs which do not discriminate against others. Several well-known Buddhist intellectuals and writers in Sri Lanka have spoken and written against narrow ultra-nationalism by Buddhists. These social and religious reformers (laity and clergy) have included nationally known persons such as Bhikkhu Walpola Rahula, Dr. E.W. Adikaram, Dr. G.P. Malalasekera, Dr. A.P. de Zoysa, and Martin Wickramasinghe. One can also note the influence of liberal, foreign Buddhist theosophists such as Colonel Olcott, founder of the Theosophical Society, F.L. Woodward, the principal of Mahinda College, Galle and numerous reformist foreign and local theosophists who taught in Buddhist schools in Sri Lanka. All these reformers were embroiled in controversy in their time, but held their ground courageously and are examples of a concerned Buddhism that existed and continues to exist in Sri Lanka.

³ My thanks to Kumari Jayawardena for her incisive comments on this paper.

1.1 Ethnicised and Politicised Buddhism in Sri Lanka: A Brief History

There is no dispute that Buddhism was introduced to Ceylon around 3 BCE from India at a time when the connection between Buddhism and political authority was already well developed under the Asokan⁴ Empire. Following the Kalinga wars, Asoka filled with remorse at the death and destruction caused by the war, embraces Buddhism, elevates it to the position of state religion and puts his authority behind its propagation both within and outside his kingdom. Buddhist emissaries were sent far and wide. None other than his son Mahinda is sent to Ceylon. The arrival of Buddhism is also believed to have coincided with the formal establishment of kingship in Ceylon. In fact the first convert to Buddhism was the king himself, Tissa, later to become Devanampiyatissa who following Asoka's example made Buddhism the state religion in the particular orthodox form of Theravada. Buddhism replaced the pre Buddhist beliefs and practices deriving from a multitude of sources as the central value system and the official ideology of the kingdom, while at the same time incorporating many of those beliefs, rituals and practices as an 'authentic' part of Buddhism (Bechert 1978: 6, Malalgoda 1976).

Under subsequent Sinhala and also Tamil kings – the connection between state and Buddhism remained strong characterised by interdependence and mutuality of interests.⁵ The colonial conquest of Ceylon by the Portuguese, the Dutch and later the British, disrupted this relationship. Buddhism and the *sangha* progressively lost the state patronage that it had traditionally enjoyed. Initially, the British Administration, under the terms of the Kandyan Convention of 1815, the treaty which gave the British control of the Kandyan provinces, agreed that “the religion of the Boodhoo . . . is . . . inviolable and its Rites, Ministers and Places of Worship are to be maintained and protected”. However under pressure from Christian missionary organizations, the enthusiasm to respect the undertakings of the Kandyan Convention declined. By the 1850s all British support for Buddhism was effectively withdrawn leading to what scholars refer to as the ‘disestablishment’ of Buddhism (Malalgoda 1976:116, Wriggins 1960:186).⁶

Buddhist revivalism of the late 19th century was a direct response to this ‘disestablishment’ of Buddhism. It was a protest against westernisation, the use of English in public institutions which was only spoken by a small elite group of Sinhalese and Tamils and the advantageous position of Christians and Christian institutions. The major purpose of the religious revival was to resuscitate the old faith while giving the younger generation a modern education in English which would impart to them a sense of pride in their traditional culture. For the revivalist movement, restoring state patronage lost during colonial rule was seen as indispensable to the goal of restoring Buddhism to its former glory. It was not in itself however a nationalist

⁴ Asoka the Great was an Indian emperor of the Maurya Dynasty who ruled almost all of the Indian subcontinent from 269 BC to 232 BC.

⁵ The king also retained the power of religious regulation including the right to purge the sangha of heretical elements in the interest of maintaining its purity. The Sangha in turn legitimised the power of kings, influenced the succession of rulers and also acted as mediators in royal disputes (Phadnis 1976:40-42, Leach 1973).

⁶ Parallel to these developments, the British were also seeking to consolidate its economic and political control of the island through increasing financial and administrative support to the Christian church and its missionaries who were involved in propagating Christian and English education. Profession of Christianity was made a necessary condition for admission into public office. Those who followed a Christian education were rewarded with advantages whilst those who didn't were fined.

movement at the outset. Many of these anti-western pro-vernacular sentiments were also shared by the predominantly Hindu Tamil minority (Manor 1984:3, Phadnis 1976: 67, Malalgoda 1976:173,)

By the early 20th century however the Buddhist revival began to acquire distinctly nationalist and ethnic overtones primarily under the leadership of Buddhist idealogues – both monks and lay persons. Sinhala ethnicity and Sinhala language were fused with Buddhism in a way that an affirmation made on behalf of one became also an affirmation of the other. Race – Sinhala, Language – Sinhala and religion – Buddhism became the three defining elements of the national identity of the new post-Independent Ceylonese state to the exclusion of other identities. The ‘un-Sinhala’ and ‘un-Buddhist’ elements of society were expected to respect the dominance of Sinhala-Buddhist culture and assimilate into it. The militant nationalism which developed in the pre-independence period, directed its frustration and anger not so much against a foreign ruler, but against elements of Ceylonese society itself. If the revival began as an anti-Christian movement, by the turn of the century Muslims had also become a threat mainly due to their domination of external and internal trade. Muslims were posed as ‘alien traders’ as opposed to ‘sons of the soil’ and virulently attacked in the Sinhala Press (Seneviratne 2004, Stirrat 1998:153, Jayawardena 1985). Dharmapala in 1906 wrote (cited in Jayawardena 1985: 12-13),

Aliens are taking away the wealth of this country and the sons of the soil where are they to go? The immigrants who came here have other places to go to, the Sinhalese has no place to go to. Is it just that the sons of the soil should suffer while aliens enjoy ...

and,

The Muhammedans, an alien people ... by shylockian methods became prosperous like the Jews. The Sinhalese sons of the soil whose ancestors for 2358 years had shed rivers of blood to keep the country free from alien invaders ... are in the eyes of the British only vagabonds.

Closer to independence, Tamils emerged as the most obvious ‘Other’, because of perceptions of their strong position within the colonial administration and in higher education and their political demands which were considered disproportionate to their numbers (see Jayawardena 1985).

Thus Sinhala-Buddhist nationalism came to define itself in opposition to an identifiable threat/enemy and its project was about neutralising these threats and establishing a Sinhala-Buddhist state in which they can enjoy privileged status. It failed to recognise that all ethnic groups living in Sri Lanka were legitimate inhabitants and thereby forge an inclusive national identity (Seneviratne 2004). As Jayawardena points out, this ideology has remained more or less constant over the years, although the groups targeted for attack may shift (1985:5) and also coalesce. Sinhala Buddhist nationalism today appears to define itself in opposition to ‘multiple’ threats of varying degrees from Tamils, Christians, Muslims as well as foreigners

and foreign-funded NGOs. The latter were considered a threat due to their advocacy of a negotiated political settlement to resolve the ethnic conflict. They are seen as neo-colonial, Christian, anti-Buddhist as well as a corrupting influence, articulating a conflict resolution discourse which is imported from the west and part of a western conspiracy to divide the country in favour of Tamils (Orjuela 2004: 261).

1.2 The Mahavamsa and its Legacy

Sinhala-Buddhist nationalists, in their efforts to justify the establishment of a Sinhala-Buddhist majoritarian state within which they enjoy privileged status argue that the island is and has always been a unitary Sinhala-Buddhist State where minorities communities, whether Tamils, Muslims, Indian Tamils etc, live only due to Sinhala-Buddhist sufferance. The *Mahavamsa* written by Buddhist monks in the 6th century is the key historical text that is relied upon to make and justify this claim. As Malalgoda quoting B.H. Farmer states “Rather as the Old Testament [built] up the concept of Israel as a specially chosen people, so [did] the *Mahavamsa* build up the special destiny of the Sinhalese people and the island of Sri Lanka in relation to Buddhism” (Malalgoda 1976: 22). Together with other nationalist / fundamentalist movements which privilege the past and which seek to restore a mythical golden age, so too Sinhala-Buddhists nationalists want to recreate a golden era where Buddhism and the Sinhalese can reign supreme (Leach 1973 31-32). A number of episodes that are highlighted in the *Mahavamsa* have become irrefutable fact in the service of this nationalist project. These are:

First, that the Lord Buddha visited Sri Lanka on three separate occasions and in those three visits traveled across the island sanctifying sixteen places and that the island itself is a ‘relic of use’ of the Buddha to be venerated and protected (Frydenlund 2005:8, Bartholomeusz 2002:136-144, Liyanage 1998).

Second, that Prince Vijaya, who landed on the island on the day of the Buddha’s death, is the father of the Sinhala people and that Lord Buddha is said to have asked the god Sakra to protect Vijaya in his mission to Sri Lanka, where he prophesised Buddhism would flourish for 5,000 years (Liyanage 1998).

Third, that the Buddha entrusted the care of pure Buddhism to the Aryan Sinhalese, the descendents of Vijaya, after driving off the aboriginal “demons” living there; from then on, whenever the island was invaded, it was to be re-conquered in the name of Buddhism. The central figure of this “reconquest myth” is the young warrior Dutugemunu (161-137 B.C.), who accompanied by 500 Buddhist monks and a monk-general, mounts a relic of the Buddha on the end of his spear and goes to battle with the Tamil king Elara. His battle cry is ‘not for the kingdom, but for Buddhism’ (Trainor 1997: 110-111, Leach 1973:34, Liyanage 1998).

Implicit in the re-conquest myth of Dutugemunu is also a legitimization of war and violence to protect Buddhism and the Sinhala race. In the *Mahavamsa*, after the slaughter of thousands

of people, the victorious Dutugemunu is stricken with guilt, and in dread of the karmic consequences of his acts. But monks in attendance console him that that he need not worry as there had been only one and a half “human” victims; i.e. there had only been one man who had taken Buddhist precepts and another who had taken refuge in the Three Jewels amongst the slain. The other thousands killed in the war were non-believers who were therefore non-human. Killing them causes no retribution to the king (Bartholomeusz 2002: 136 - 144, Obeyesekere 1993: 136).⁷

The *Mahāvamsa*'s potent fusing of national identity, territorial integrity and religious duty continues to resonate with a majority of Sinhala Buddhists in Sri Lanka. Once confined to nationalist elites, this ideology has now trickled down to the masses, facilitated by the extensive and longstanding reach of the media in a small largely literate country and the retelling of the saga by artists and poets over the years (Seneviratne 2004, Liyanage 1998, Tennekoon 1990). As both Kapferer (1988: 35) and Obeyesekere (1993:153) point out, the Dutugemunu myth keeps surfacing everywhere, particularly during heightened periods of conflict. Overt political propaganda, debates in parliament, commentary in the press, popular histories, learned arguments of Buddhist priests as well as lay scholars are full of references to these stories as if they were factual accounts of historical events. Even urban mobs are inspired by it. They are reproduced in school texts and presented as fundamental to Sinhalese identity and Sinhalese political rights. Even military units fighting the Tamil separatists have been given such names as the Gemunu watch, the Sinha Regiment, and the Rajarata Rifles, names filled with mythic and Sinhalese nationalist significance. According to Steven Kemper (quoted in Bartholomeusz 2002: 21-22),

The *Mahāvamsa* occupies the same position in Sinhala society that the *Ramayana* holds in Indian society. People know the tradition before they know that they know it. As children they hear shreds and patches of the tradition recited. They see temple paintings evoking it, or they follow cartoons in Sinhala newspapers representing the lives of righteous kings. As they grow older, they discover that there is a historical chronicle from which those episodes derive.

As long as Sinhala-Buddhists believe that a unitary state with one religion and one language is required to honour the sacred trust of Lord Buddha, the implications for the self-determination and aspirations of Tamils and other minorities living in Sri Lanka will continue to be negative (Liyanage 1998).

⁷ This contrasts with Asokan Buddhism which represented a denunciation of the destruction and suffering caused by war. For Asoka, the idea of a non-denominational welfare-state was born from the inner conflict resulting from repentance of the war he had waged before his conversion to Buddhism. In the Asokan state, Buddhism provided the ideological and symbolic unity to a far flung empire composed of heterogeneous ethnic, language and tribal groups whose long term unity could never have been assured. For the author of the *Mahāvamsa*, on the other hand, the war of Dutugemunu against the Tamil invaders was by no means a problem of religion and morality, but a justified act of national politics (Bechert. 1978: 7, Seneviratne 1999). Modern Buddhist monks also see a positive relation between violence and protection of the Sinhala-Buddhist state. For a section of them the abandonment of the doctrine of non-violence (*ahimsa*) while not desirable, may nonetheless be necessary for the survival of the Buddhist state (Kapferer 1988:86-87).

1.3 Role of the Sangha

Certain sections of the *sangha* in Sri Lanka have not only played an important role in articulating the Sinhala-Buddhist nationalist agenda, but they have actively mobilised support for that agenda and more recently gone so far as entering the political fray to defend and promote that agenda. Given the status of the *sangha*, as an organic part of orthodox canonical Buddhism and as one of the 'triple gems' or the three sacred refuges which every Buddhist must invoke and respect, their active involvement in the nationalist project has given added legitimacy and force to it. This role of the monk is in direct contrast to the ideal conception of the monk as one who has renounced the material world to transmit the teachings of the Buddha to humanity and to search for liberation from the cycle of birth and death (Phadnis 1976: 30).

Two developments in the history of Buddhism in Sri Lanka have had an impact on the evolving role of the Sangha. First is the primacy given to learning and teaching the lay community over meditation and practice following a debate as to the basis of the *sasana* in the 1 BCE (despite the clear and unambiguous doctrinal position of the Buddha on this question – that practice was higher than learning. Out of this development there arose a vocational differentiation of monks as *gantha-dhura* (vocation of learning and teaching of doctrine) and *vipassana-dhura* (vocation of meditation) as well as a residential differentiation as *aranna/vana vasi* (forest dwelling) and *gamavasi* (living in towns and villages) monks.⁸ This fundamental conflict between practice and learning of the doctrine and the functional differentiation of monks became a very significant feature in the early history of Buddhism (Malalgoda 1976:19).

Second is the further expansion of the role of the monk during the 20th century as part of the creative process of 'modernising Buddhism'. Anagarika Dharmapala who spearheaded the transformation of the Buddhist revival into a Sinhala-Buddhist revival also redefined the role of the monk as the caretaker of a flock [an idea derived from Protestant Christianity] and a social worker who would be responsible for purifying Buddhism from its colonial and popular contaminations. The new role of the monk had two distinct aspects; the first was economic and pragmatic and involved raising the living standards and quality of life of the people. The second was political and ideological and involved reviving an idealized Sinhala-Buddhist culture which was presumed to have existed in pre-colonial times. Dharmapala inspired a number of monks to take on a flurry of activity from village development to anti-alcohol activity and crime eradication (Seneviratne 1999:193).

In the 1940s, the role of the monk as social worker was further extended by monks at the Vidyalankara Pirivena who forcefully argued that this included political activity. The construction and legitimation of the monk as a political actor was first set out in a declaration issued by the Vidyalankara Pirivena in 1946 and later elaborated in the *Bhiksuvaḡe Uramaya* written by Bhikku Walpola Rahula. In the *Urumaya*, Rahula argued that Sinhala Buddhist monks had played an active role in various social and political spheres from the earliest times and that was the heritage of the monk in Sri Lanka. Rahula argued that since classical times

⁸ The *ganthadburā* developed around them an infrastructure to promote the teaching and learning of the *dhamma* and also other subjects. In return for this service, the laity took care of their material needs (Malalgoda 1976: 17 -22). In fact the only formal education that was available during pre-colonial times was to be found in the temple (Hughes 1987).

the monk has participated in the island's politics as advisor, mediator and guide, that he has always been actively involved in the achievement of the island's welfare and prosperity and that Buddhism has always been the national religion of the people (Tambiah 1992:102, Abeysekera 2002:83, Seneviratne 1999). This claim to politics emerged in the space of a polemical debate between the Vidyalkara monks and the United National Party (UNP) in 1946. The debate originated at a meeting held at the Vidyalkara Pirivena where D.S. Senanayake⁹ castigated the monks for becoming vocal supporters of the Lanka Sama Samaja Party (LSSP) after its formation in 1935 (Tambiah 1992:15 -18, Phadnis 1976:162, Abeysekera 2002: 82).

Many factors impelled the monks towards political activism and maximised the political potential of the sangha. The sangha in pre-1956 Ceylon was an alienated elite. Of all the sectors in society it had lost most under the impact of foreign rule. From a place of honour under Sinhalese kings, the monks had become an anachronism in the modern westernized society developing around them. Their traditional educational functions had been usurped by governments and missionary schools and their ignorance of the English language kept them from effective communication with those who wielded power. To the monks, the idea of radical political change had powerful appeal (Smith 1966d: 490).

It was in this context that the radical monks of Vidyalkara formed the Lanka Eksath Bhikku Mandalaya (LEBM) in July 1946 asserting the right of monks to participate in politics and the need to overthrow the capitalist government of the UNP. The radical political agenda of the LEBM included the rejection of the Soulbury Constitution as the constitution of a free and independent sovereign state, the support for a socialist programme including the nationalization of transport, mines and estates, the necessity to control foreign investment and the support for a scheme of free education. Many of these monks participated in the general strikes of 1946 and 1947. Once the UNP won the elections of 1947, the LEBM became defunct, but paved the way for the Sinhala nationalist Buddhist monks of the Eksath Bhikkhu Peramuna (EBP – United Front of Bhikkus) of the 1950s (Tambiah 1992:19-20).

The EBP was formed with the coming together of the Sri Lanka Maha Sangha Sabha and the All Ceylon Congress of Bhikku Societies¹⁰ on the eve of the 1956 elections in opposition to the UNP and in favour of the Sri Lanka Freedom Party (SLFP). Both organizations had been formed with the object of making preparations for the *Buddha Jayanthi* (the 2500th death anniversary of the Buddha in May 1956). Over 75 regional monks associations came to be affiliated with the EBP and each of these units undertook to campaign actively for their local MEP candidate. They played a crucial role in the overwhelming victory won by the Mahajana Eksath Peramuna (MEP) led by S.W.R.D. Bandaranaike¹¹ (SWRD) and his SLFP in 1956. The EBP's *Dasa Panatha* released in March 1956 laid down 10 principles which should inform the objectives and policies of the future government which were accepted by SWRD. These included the commitment to make Sinhala the one official language and to implement the

⁹ Don Stephen Senanayake (October 20, 1884–22 March 1952) was an independence activist who served as the first Prime Minister of Sri Lanka from 1947 to 1952.

¹⁰ Their members belonged mostly to the LEBM.

¹¹ Solomon West Ridgeway Dias Bandaranaike (frequently referred to as S.W.R.D. Bandaranaike; was the fourth Prime Minister of Sri Lanka, serving from 1956 until his assassination by a Buddhist monk in 1959

Buddhist Commission Report. When the election was won, the EBP came to wield enormous power within the new political order until the relationship grew sour in 1959 (Smith 1966b:39, Smith 1966d). Following the assassination of SWRD by a monk in 1959, the political activism of monks diminished to some extent but only to resurface later. For instance monks were members of the Janatha Vimukthi Peramuna (JVP) in the 1970s and also played a central role in the JVP insurrection of 1987 – 1989 taking up arms to liberate the country from the Jayawardene¹² regime, LTTE terrorists and Indian invaders. A large number of monks are believed to be among those killed by the paramilitaries of the Premadasa¹³ regime which quelled the uprising (Abeysekera 2002: 220 – 227).

Despite this legitimation of the monk as political actor, only a handful of monks had directly contested elections until 2004. This however changed with emergence of the Jathika Hela Urumaya (JHU), a political party of Buddhist monks who contested the 2004 parliamentary elections fielding 206 candidates, all monks, of whom 9 were able to win. The JHU is committed to an aggressive form of Sinhala-Buddhist nationalism and campaigned on a 12 point programme built around the promise of establishing a *dharmarajya* (rightful and true government according to the teachings of the Buddha) aimed at restoring the *buddhasasana* at the apex of the Sri Lankan state.¹⁴

The JHU emerged in a context where there appeared to be a consensus within mainstream political parties on the need to formulate a constitutional response to the ethnic conflict and a sense that these parties were making compromises with the ethnic and religious minorities. In fact voting patterns at the 2004 elections indicate that many middle-class UNP voters, who were opposed to the UNP's peace bid with the LTTE, shifted their loyalties to the JHU which presented to the electorate a militant version of Sinhalese nationalism, interspersed with the sentiments of majoritarian insecurity among the Sinhalese and a message for moral regeneration. The current shift within the SLFP and the country in general to the nationalistic right has to be attributed in part to JHU politics, although its success may ultimately undermine its own existence (International Crisis Group 2007, Uyangoda 2004).

1.4 Ethnic Outbidding

Once Buddhism became ethnicized, the politicisation of ethnicized Buddhism was spurred by a Westminster style majoritarian system of democracy which provided the institutional framework for the state to be dominated by a single communal group unresponsive to the needs of others. This was partly the consequence of the country's electoral system which structured political competition along ethnic lines. By the mid-1950s, Sinhalese and Tamils had their

¹² Junius Richard Jayewardene, famously abbreviated in Sri Lanka as *JR*, was the first executive President of Sri Lanka, serving from 1978 till 1989. He was a leader of the nationalist movement who served in a variety of cabinet positions in the decades following independence. Before taking over the newly created executive presidency, he served as the Prime minister of Sri Lanka between 1977 and 1978.

¹³ Ranasinghe Premadasa was the 3rd President of Sri Lanka from January 1989 to May 1993. Before that, he served as the Prime Minister in the government headed by J. R. Jayewardene.

¹⁴ See Rampton and Welikala (2005: 46 - 47) for a condensed version of the JHU programme

own political parties. Political competition between the two major Sinhala parties, the UNP and the SLFP became a fight for the majority Sinhala vote, due to a combination of 1) largely homogeneous electoral constituencies, over 80% of which were overwhelmingly Sinhalese and 2) winner takes all single-member constituencies. To get a leading edge, the Sinhala voters were wooed on the basis of privileges for the majority at the expense of the minority structured political competition along ethnic lines (Horowitz 1990).

It was the SLFP, formed in 1951 by SWRD who resigned from the UNP, which led the way in fostering communal politics in the country, previously known as Ceylon. The SLFP was designed to appeal to Sinhalese nationalist sentiments, combining a clear rejection of British and western influence with an assertion of insidious Sinhalese cultural, religious and traditional village values. The UNP originally refused to give in to communal pressures particularly during D.S. Senanayake's time. Later leaders however could not resist mixing religion and politics. Since then, these two parties - the UNP and the SLFP -- which have dominated parliament in turns, have sought not only to build a Sinhala Buddhist state, which privileged their own community, but practiced a policy of 'ethnic outbidding', where they tried to outbid each other on an anti-minority stance (Devotta 2007: 17). The lack of a bipartisan approach to resolve the conflict was a major obstacle to finding a viable solution to the conflict during this period (Goodhand et al 2006).

The earliest example of ethnic outbidding goes back to the time when Bandaranaike started articulating the 'Sinhala Only' policy. The UNP, led by Sir John Kotelawela at the time, became increasingly shaky over its previous commitment to parity of the two languages, and adopted 'Sinhala Only' in time for the 1956 elections. Ethnic outbidding also prevented the search for a sustainable negotiated settlement to the conflict, with government after government attempting to negotiate a solution to the Tamil problem and opposition after opposition being able to scare them into abandoning any agreement by popular campaigning for what is described as the defence of Buddhism and the Buddha's chosen rulers of the island, the Sinhala people (Spencer 1990a:22).

Political leaders have exploited this 'Sinhala-Buddhist Consciousness' in order to come into power by privileging the majority community and taking an anti-minority stance (Richardson 2005, Devotta 2007). Political leaders who have tried to go against the grain to address Tamil grievances in a meaningful way have been undermined by opposition parties who have easily mobilised public protest against such reforms. The exception to this pattern was when the J.R Jayawardene government was forced to devolve power under the terms of the Indo-Sri Lanka Peace Accord (ISPA) in 1987 despite heavy opposition from Sinhala nationalists. It was also made possible by the fact that the UNP had a 5/6th majority in parliament. A 36-hour curfew had to be imposed after the accord was signed amidst scattered acts of violence and arson against Tamil people and business establishments. Many Buddhist monks including Madoluwawe Sobitha, the incumbent monk of Naga Vihara in Kotte, were at the forefront of the protests against the Accord (Seneviratne 1999: 237).

Expectations that the adoption of a Gaullist style presidential and parliamentary system -- which replaced the Westminster model of democracy and elections based on a system of

proportional representation (PR), which in turn replaced elections based on the first past the post system -- might alter the nature of electoral competition between the SLFP and UNP have not unfortunately materialized.

With the adoption of an executive president who is elected by the people, the expectation was that the new office would be filled by a national figure who would represent all ethnic groups in society, and capable of encouraging consensual politics between those groups. The system of elections was designed to encourage Presidential candidates to look beyond their own party and ethnic group, and give more attention to minority interests than was formerly the case. History has shown that the minority vote can have a major impact on the outcome of presidential elections. For instance, at the November 2005 presidential elections, had the Tamils in the North been allowed to vote by the LTTE, Ranil Wickramasinghe, who was more amenable to a negotiated political settlement, may have won the elections rather than Mahinda Rajapakse. History has however also shown that Presidential candidates can win a majority of the vote even without the full support of minority voters as was the case in 1999 Presidential elections when Chandrika Kumaratunga Bandaranaike polled 51.12% of the all-island vote despite a poor showing in Tamil districts.

Following the shift to elections based on PR, representation of minorities and minority political parties increased significantly. Neither the UNP nor the SLFP has been able to command a clear majority in parliament since then. Nevertheless minorities have not been able to substantially diminish Sinhala Buddhist hegemony through parliamentary means. Under the present PR system, two smaller parties from the Sinhala community which take an extreme Sinhala nationalist position have emerged i.e the Janatha Vimukthi Peramuna (JVP) and Jathika Hela Uramaya (JHU) with an extremely negative impact on ethnic relations in Sri Lanka (Rampton and Welikala 2005). In a study initiated by the Asia Foundation during the 2002 peace process, the writers argued that following the introduction of the PR system the nationalist baton has been handed over to the ultra-nationalist parties like the JVP and the JHU with growing convergence between UNP and SLFP on key economic and political issues and that, on a solution to the ethnic conflict, both parties now want a negotiated settlement to the conflict. What has in fact come true is the same authors' prediction that given the capacity of smaller parties like the JVP and JHU to foment and draw sustenance from nationalist mobilization, mainstream political parties could retreat into nationalism as a way to mobilize and secure electoral support (2005: 11, 57). Indeed the SLFP under the leadership of Mahinda Rajapakse reverted to a militant Sinhala nationalism with extremely negative consequences for inter-ethnic relations.

2. Laws, Policies and Programmes informed by the Sinhala Buddhist Nationalist Ideology

The 1956 elections and the victory of SWRD marked the political triumph of Sinhala-Buddhist nationalist ideology. Since then this ideology has informed a number of laws, policies and programmes adopted by various different governments, and continue to do so. At the same time Sinhala Buddhist nationalist mobilisation has also been able to thwart laws and policies which attempted to address minority grievances. Since the militarization of the ethnic conflict in 1983 many of the laws which explicitly discriminated against minorities – the language law, the education policies etc. have been reformed although implementation of some of these reforms remains problematic. Below I will consider some of the more important laws, policies and programmes informed by the nationalist ideology, such as the ‘Sinhala Only’ policy, colonization of land, educational reforms and recent manifestations of anti-Christian sentiments. There are also those laws and policies which were intended to address minority grievances that were effectively blocked on the strength of nationalist mobilisation. But first, it is important to consider the extent to which the state has identified itself with Sinhala and Buddhism.

2.1 State Self-Identification with Buddhism

The transition from British colony to independent nation state was a smooth one, without the bloodshed and violence which marked the independence struggle in the subcontinent. The UNP which came to power in 1948 drew its strength from the highly westernized middle class and largely represented its interests. Its politicians were steeped in the tradition of British liberalism and were in many instances admirers of British institutions. Some of them were Christians and others had received their education in Christian schools in Ceylon and had higher education abroad. They were committed to principles of liberalism, democracy and religious neutrality of the state (Smith 1966c:453).

D S Senanayake, the first Prime Minister (PM) proclaimed the ideal of a united and secular Ceylonese nation. The constitution provided the framework of equal citizenship in a secular state. Sec 29 of the Constitution ensured religious freedom, and prohibited discrimination against any community or conferring of privileges or advantages on any community. Despite strident demands of Sinhala nationalists for recognition and elevation of Buddhism, the Senanayake government resisted these demands. Smith relates two specific incidents when the Prime Minister resolutely opposed government intervention in matters of religion. The first occasion was in December 1950, when a high ranking delegation of Buddhist monks from Kandy requested state protection and support for Buddhism. The second was in 1951, when a delegation from the All Ceylon Buddhist Congress demanded for an official commission to inquire into the grievances of Buddhists. The PM is reported to have asked them whether in addition to the three refuges – the Buddha, Dhamma and *Sangha*, they wanted a fourth – the government! (Smith 1966c:453 - 457).

Subsequent political leaders were however unable to resist mixing religion and politics. The *Buddha Jayanti* – the 2500th anniversary of the passing away of the Buddha which fell in 1956

marked an important turning point in this regard. Celebrations for the *Jayanti* commenced two years earlier in 1954 with state patronage and became a huge rallying point for the revivalist movement. The Buddhist Council of Ceylon was appointed with cabinet approval to organise and direct the celebrations. The inauguration of the Council was itself a huge state-sponsored event, where over 2500 Buddhist monks gathered to bless the work of the Council. Several of the speakers actively defended government involvement in the celebrations. An elder monk of the Siam Nikaya who spoke at the event asserted that all obligations which the British had undertaken under the Kandyan Convention of 1815 had accrued to the present government, and that therefore there was nothing irregular in the government according a special place to the Buddhist religion and its affairs. In his view failure to show a special regard for the welfare of the Buddha Sasana was to commit a great wrong (Smith 1966c: 459). The celebrations involved huge disbursement of state funds for a number of activities including the translation of the *Pali Tripitaka* into Sinhalese, the preparation of an Encyclopaedia of Buddhism and the renovation of the Temple of the Tooth. The government also published numerous pamphlets, magazines and books on the *Buddha Jayanti* while facilitating preaching missions equipped with amplifiers and film projectors to tour the country. Innumerable public meetings were also organised at the local level by local government institutions (Smith 1966c: 459 -460).

A number of scholars agree that the *Buddha Jayanthi* marked the identification of Buddhism with the Ceylonese state and set the tone for the subsequent development of state-religion relations in Ceylon. While the UNP had hoped to benefit from their association with the *Jayanti*, SWRD and his SLFP in coalition with the MEP was in fact in a better position to exploit the revivalist enthusiasm in the elections to be held in 1956 (Smith 1966c).

SWRD, who had used the imagery of the Buddhist cultural revival to his advantage since the 1930s, left the UNP in 1951 to form the SLFP, when it was clear that the leadership of the UNP was not going to be bestowed on him. The third parliamentary elections to be held after 1956 came to be dominated by the assumptions and recommendations of the Buddhist Commission of Inquiry¹⁵. The SLFP/MEP had the support of a coalition of forces which later came to be known as the *pancha maha balavegaya* comprising teachers, Buddhist monks, farmers, workers and ayurveda physicians - all rallying together as Sinhala Buddhists to demand for political change. Its victory in 1956 has been generally viewed as the triumph of a Sinhala communal populism over the old western-oriented political elite (Spencer 1990a).

After coming into power and prior to his assassination SWRD took a number of steps in fulfilment of his election manifesto. 'Sinhala Only' legislation was passed; a Ministry of Cultural Affairs was created; the Vidyalkara and Vidyodaya Pirivenas were elevated to university status, and a Buddha Sasana Commission comprising 10 monks and 5 lay persons was appointed to inquire into the status of Buddhism in Ceylon. State-aided denomination schools were nationalised in 1960-1961 by a government headed by his widow, Sirimavo Bandaranaike and was followed by a policy of standardization of university education in 1971 (discontinued in 1977) which

¹⁵ The All Ceylon Buddhist Congress established its own Buddhist Commission of Inquiry in 1954 comprising 7 members of the *sangha* and 7 laymen. Its report which came out after 11 months of deliberation was revolutionary in its assumptions and recommendations. These issues became the issues on which the third parliamentary election to be held after independence in 1956 came to be dominated.

blatantly discriminated against Tamils students from Jaffna wishing to enter university, which in turn affected their access to employment in the public and private sector as well as the armed forces and the police. Colonization of land in the North and East further alienated the Tamil community. A new Constitution adopted in 1972 went on to confer foremost place to Buddhism from amongst all religions in Sri Lanka and further declared Sri Lanka to be a unitary state. The 1972 constitution also dropped sec. 29 of the Soulbury Constitution. The 1978 Constitution which replaced the 1972 Constitution retained these two latter provisions while attempting to address some minority grievances.¹⁶ Tamil was recognised as one of the official languages of Sri Lanka, and discrimination on the basis of ethnicity was made unconstitutional, but it was too little too late (Wilson 1998:34–54, Bose 2007).

In the 1990s, the link between Buddhism and the state was sought to be further strengthened with the establishment of a Supreme Advisory Council and a Department of *Buddha Sasana* under the Ministry of Cultural Affairs through which the state would support and manage Buddhist affairs. The latter was on and off elevated to a Ministry of *Buddha Sasana* by some governments. To be fair, although Departments for the promotion of Hindu Religious Affairs and Muslims Religious Affairs were also subsequently set up, they were never as well patronised (Kemper 1990:194–201). The Supreme Advisory Council was set up by President Premadasa in 1990 comprising 25 members (of whom 16 were monks) to advise the government and was instrumental in getting the government to ban fish/prawn farms on the basis that they went against the first of the five precepts in Buddhism which refers to abstaining from taking life (Juergensmeyer 1994:108). The Council has, however, not functioned since 1997 when the four Mahanayakas -- the chief monks of the Malwatte and Asgiriya chapters of the Siyam Nikaya, the Amarapura Nikaya and the Ramanna Nikaya (Freudenlund 2005: 4–5) -- resigned in protest against the devolution proposals of the Kumaratunga government.¹⁷

The state's identification with Sinhalese-Buddhists has not been limited to laws and policies. The post independence Sri Lankan state has also gone to great lengths to ritually and symbolically identify itself with the Sinhala-Buddhist majority in the country. These symbols and rituals can take many different forms. At one level there is the special emphasis/prominence given to Buddhist rituals as part of state functions (Phadnis 1976:157). The first such ritual expression of the relationship between Buddhism and state is traced back to 2 March 1962, when William Gopallawa assumed office as Governor General of Ceylon. Smith (1966d: 488) recounts the incident as follows:

Rejecting the traditional uniform with scarlet sash, plumed helmet, sword and scabbard, he wore the simple white cloth and banian of the common man. His Excellence placed a tray of jasmine flowers before an image of the Buddha, installed for the first time at Queen's House, while members of the sangha chanted verses from the Buddhist scriptures. This was also the first time that monks were freely welcomed there.

¹⁶ Muslims were not as affected by these policies as the Muslim leadership did not mind serving the cause of Sinhala nationalism in return for certain privileges and protection of Muslim religious identity (Zackariya and Shanmugaratnam 1997)

¹⁷ Interestingly, by then the concept of the Advisory Council had found its way into the 1997 draft constitution which assured that the 'state shall consult the Supreme Council in all matters pertaining to the protection and fostering of the Buddha Sasana (Frydenlund 2005: 9–10).

. . . Then in a ceremony reminiscent of the ancient days of the Sinhalese kings, the Governor General sat at the feet of a learned bhikkhu who reminded him that though he was now highest in the land he must himself be governed by the law of the Buddha.

At another level it is expressed through the relationship with the *sangha*. For instance during inauguration ceremonies for new *mahanayakes*, it is the head of state who hands over the Act of appointment. Furthermore all members of a newly elected government and members of parliament in general seek the blessings of the chief monks in Kandy. They also seek the blessings of the Buddha's tooth relic, which is the paramount symbol of the Sinhala-Buddhist state. Frydenlund (2005: 11) notes that even JVP politicians so often in opposition to the *sangha* hierarchy, visited Kandy for blessings when they entered the United People's Freedom Alliance (UPFA) government in May 2004.

There is also a spatial aspect to this identification in the preoccupation of the state, the monkhood and the lay community with constructing Buddhist statues and temples all across the country in a sort of ritual stamping of the landscape as Sinhala Buddhist. Some recent communal conflicts have arisen in the context of statues and temples being built on sites disputed by the minority communities. At the 2005 presidential elections, Ranil Wickramasinghe sought to emphasize his Sinhala-Buddhist credentials by promising to build the largest Buddha statue in the world in Sri Lanka.

2.2 'Sinhala Only' policy¹⁸

'Sinhala Only' was among the earliest and the most pernicious of the laws and policies to be informed by Sinhala Buddhist nationalism in Sri Lanka. While there has been incremental chipping away of this law and policy, culminating in the 13th and 16th amendments to the constitution which has guaranteed parity of language between Sinhala and Tamil, implementation of these reforms still remains a challenge.

During colonial rule, both Sinhalese and Tamil leaders had joined forces to clamour for *swabasha* (one's own language) whereby both Sinhala and Tamil would replace English as the island's official languages. But when SWRD realized that they could use a Sinhala only platform to outdo the UNP, the SLFP and the MEP began to campaign on a slogan of Sinhala only in 24 hours. Following the victory of SWRD at the 1956 elections, the first piece of legislation that was submitted by the Bandaranaike government related to language. The Official Language Act No. 33 of 1956 declared Sinhala to be the only official language. It made no explicit reference to Tamil or English but indirectly allowed for the use of English for official purposes until 31st December 1960. The Act was accompanied by Cabinet memoranda and treasury circulars that made it compulsory for new entrants to the public service and old public servants under the age of 50 to pass a Sinhala language proficiency test. This requirement eventually led to a marked drop in the number of Tamil-speaking public servants from 1956 – 1970.

¹⁸ This section is primarily based on Skanthakumar, B (2008) Language Rights in Sri Lanka: Enforcing Tamil as an Official Language, Colombo, Law and Society Trust.

No sooner than the Act was passed, the same government was forced to reconsider its implications. In fact the years that followed the Sinhala only legislation are marked by innumerable attempts to undo its wrongs at least to some extent. (See box). Even though some attempts such as the Bandaranaike–Chelvanayakam Pact (BC Pact) and the Dudley Senanayake - Chelvanayakam Pact (DC Pact) were foiled by mobilisation of Sinhala nationalists forces, remedial legislation was in fact passed in 1958 in the form of the Tamil Language (Special Provisions) Act of 1958. Under this Act, Tamil could be used for ‘prescribed administrative purposes’ in the Northern and Eastern provinces without prejudice to the operation of Sinhala as the official language in those provinces. This principle was constitutionally recognized by the 1972 and 1978 Constitutions although little was ever done to implement its provisions.

**Landmarks in the Language Law and Policy Prior to
13th and 16th Amendment to the 1978 Constitution**

1957. A civil disobedience campaign under the leadership of S.J.V. Chelvanayakam of the Federal Party resulted in the signing of the Bandaranaike Chelvanayakam Pact in August 1957. The Pact recognised Tamil as the language of a national minority in Ceylon. By April 1958 the pact was however abrogated in the face of massive protests by Buddhist monks as well as the opposition. In a pattern of ethnic outbidding which has continued to this day, the UNP with a young J.R. Jayawardena playing a leading role, organized a massive campaign of opposition against the BC Pact, ultimately destroying the deal.

1958. The Tamil Language (Special Provisions) Act of 1958 was passed in the face of continuing protests by Tamils. The Act provides for the use of Tamil in correspondence with the public for prescribed administrative work in the Northern and Eastern provinces without prejudice to the operation of Sinhala as the official language in those provinces. Again in the face of bitter opposition from Sinhala nationalists this law became a dead letter as the regulations necessary to give it effect were never passed.

1965. The Dudley Senanayake and Chelvanayakam Pact between the UNP leader and the leader of the Federal Party resulted in the Tamil Language (Special Provisions) Regulations of 1966. Implementation of these regulations were however frustrated by the opposition and abandoned altogether following UNP’s defeat in the 1970 general elections.

1972. Under the first republican Constitution adopted by the United Front government in 1972, reasonable use of Tamil for purposes of administration in the North and East is recognized, while Sinhala remains the only official language.

1978. Under the provisions of the Second Republican Constitution of 1978 again Sinhala alone was recognised as the official language, although Tamil was to be used as the language of administration in the North and East.

1987 marked another chapter in the language struggle in Sri Lanka, when under the terms of the ISPA of 1987, Tamil was elevated to an official language on par with Sinhala, providing fresh impetus to ensure the language rights of Tamil speaking people.

The present official language policy of Sri Lanka is contained in Chapter IV of the Constitution as modified by the 13th and 16th amendments to the constitution in 1987 and 1988 respectively. The 13th amendment to the constitution accorded to Tamil the status of an official language on par with Sinhala while granting to English the status of a link language. The 16th amendment declares that Sinhala shall be the language of administration of all the provinces in Sri Lanka other than the Northern and the Eastern provinces where Tamil will be language of administration. Sinhala is also to be the language of the courts situated in all the areas of Sri Lanka except in those areas where Tamil is the language of administration. All laws and subordinate legislation is to be enacted or made and published in Sinhala and Tamil together with a translation thereof in English.

In 1991, an Official Languages Commission (OLC) was also established to monitor and supervise compliance with Constitutional provisions and to ensure that the language rights of the Tamil speaking people are not violated. The OLC's principal function is to inquire into and report on any violation of these provisions which are brought to its notice and to make an effort to get the department or official concerned to comply with the provisions of the Constitution. Section 28(1) of the OLC Act enables the Commission take legal action against State officers who 'wilfully fail or neglect to comply with the language rights of any citizen' (Iqbal 2000)

While these amendments and mechanisms established linguistic parity between Tamil and Sinhala, these amendments in themselves have been unable to heal the cleavages that had occurred as implementation of these amendments remain weak affecting not only Tamils but also Muslim and Up-Country Tamils. The problems of implementation are many and include not being able to communicate and transact official business in Tamil, inability to obtain copies of translations and extracts of official documents in Tamils, lack of simultaneous translation facilities at ministerial and other meetings, lack of sufficient numbers of translators, lack of translation facilities for Tamil speaking members at provincial councils and local government bodies outside the North and East for both elected members and the public (with the exception of Western provincial council and Colombo municipal council), lack of bilingual/trilingual sign boards at provincial council and local government levels and lack of facilities for translations in courts of law outside the Northern and Eastern provinces; etc (Iqbal 2000, see above Skanthakumar 2008: 88 – 96).

At the root of the inability to implement the official language law and policy is the lack of meaningful steps to recruit an adequate number of Tamil speaking officers and therefore a dearth of Tamil-speaking public servants, inability to successfully bring about the required change in attitudes among State officials as well as non-compliance by State institutions such as local authorities and even some departments without any attendant consequences. Shortage of equipment such as Tamil typewriters is also a problem. Although in terms of Article 22 of the Constitution, the President has the power to gazette areas outside the North and East where there are a considerable number of Tamils living as bilingual, to enable the Government

institutions in such areas to equip themselves to deal with the Tamils in those areas in their mother tongue, only 29 divisional secretariat divisions have been so declared until now. This includes areas where Tamils comprise more than 70% of the population as well as areas where they constitute only 15% of the population. It appears that some of the areas were gazetted as bilingual due to pressure from the Ceylon Workers' Congress (CWC). The OLC recommends that bilingual designation be based on a minimum 20% linguistic minority. No Tamil officers have been appointed to these Divisional Officers yet and consequently, one cannot have a death or birth registered in Tamil in those areas.

The OLC itself has been slow to respond to its mandate. The Commission failed to file an annual report on its work until 2002, and has received only a handful of complaints each year. Even in relation to the complaints received, the commission has never followed-up to confirm whether its recommendations to heads of institutions have been implemented. The Commission has also been unwilling to exercise its powers of litigation, and has never prosecuted a public officer, on the ground that the standard of proof required to successfully prosecute is too high. More recently it has argued that it is unfair to prosecute public officers as the infrastructure for implementation of the official language law and policy is inadequate. It has also never used its power to make recommendations in relation to implementation of the language law and policy in respect of private institutions (Skanthakumar 2008: 88 – 92)

What the commission has done is conduct language audits and awareness raising programmes among public officers to inform them of the language policy. In 2006, 17 workshops were held for 1,913 officials, mostly funded by International Non Governmental Organizations (INGOs). The Commission has also undertaken language training activities among public officers. In 2006, 22 police officers received basic training and 783 received advanced Tamil language training in a context where 95% of the police force is Sinhala speaking. 496 health workers also received Tamil-language training. The Commission has prepared tri-lingual phrase books for public officers and has also taken the initiative to update the curricula and textbooks for teaching Sinhala and Tamil to public officers (Skanthakumar 2008).

In 2005, it also for the first time released a Memorandum of Recommendations for the Proper Implementation of the Policy on Official Languages. The memorandum proceeds on the premise that the official languages law and policy is adequate to address the language concerns of minorities, and makes recommendations to address the implementation problems within 15 years and in three stages. The main thrust of the recommendations are:

- 1) Recruitment of future public servants to be based on bilingual language proficiency or expectation that such proficiency will be achieved within a specified period of time (of the total number of public servants, the OLC estimates that at least 40% of them should be proficient in both languages in order for them to fulfil the official language law);
- 2) Increase in the recruitment of Tamil language public servants so that they reflect their numbers in the population. (Tamil speakers constitute 8.31% of public servants whereas Tamil speakers comprise 26% of the population);

- 3) Teaching of Sinhala and Tamil to be included as compulsory subjects in the curriculum of schools leading to the completion of the 11-year secondary education;
- 4) Restructuring the Official Languages Department so that it becomes an institution which offers accelerated language learning for public servants; and
- 5) Universities to assume the responsibility of training translators and interpreters with the aim of graduating at least 200 translators and 200 interpreters each year.

While recognizing the good intentions behind these recommendations, Skanthakumar (2008:104) questions whether they go far enough to ensure the language rights of Tamil speaking people in Sri Lanka. He asks,

Will material incentives be sufficient to encourage the uptake of language training courses in the absence of political leadership by government or moral sanctions of society? Will mid-career officers make the effort? Will there be backlash from public officers causing government to backpedal? Does the unwillingness of the OLC to countenance prosecution of public officers confirm them in their impunity for either passive or willful non-implementation of the official languages law? Will government reverse decades of discrimination against Tamil speakers in the public service by actively recruiting them, when it is politically more advantageous to reward their own (Sinhala) supporters?

He also makes a larger critique of the recommendations in relation to the bureaucratic and administrative perspective it takes in place of a rights-based approach to language rights. What is however important to note is that currently there is no political party or social movement which is resistant to full implementation of the 13th and 16th amendments to the Constitution. What is now required is the political will to make these provisions meaningful for the Tamil-speaking people in Sri Lanka.

2.3 Education

The fledgling Buddhism revivalist movement in the late 19th century in Sri Lanka began in part as a campaign to educate its youth in schools deemed appropriate for providing a proper religious education. Colonel Olcott and the Buddhist Theosophical Society (BTS) took a leading role in establishing a number of Buddhist schools throughout the country, where Buddhist teachers taught Buddhism but imparted a traditional secular education as well. These schools included several English-medium schools. Education was widely seen as the means of re-establishing Sri Lanka as a Buddhist isle. As the schools mushroomed, enthusiasm waxed for the elevation of Buddhism to its former glory alleged in the *Mahavamsa* (Bartholomeusz and De Silva 1998: 22)

Education continued to be at the heart of post-independent Sinhala-Buddhist activism, with nationalization of education becoming a key demand. Allegations in relation to education at

the time were twofold - that even though educational institutions run by private organizations were subsidized by the state which met most of their expenses, these schools were still under Christian domination and that they not only refused to teach Buddhism to Buddhist students, but instead taught Christianity, with a view to spreading that religion. In fact the Buddhist Commission of Inquiry report - *The Betrayal of Buddhism* (1956) -- had leveled the warning that what Buddhism has to protect itself at the time is not the Catholic Church but Catholic schools, and had urged the nationalization of all schools (Tambiah 1992: 64 - 65). The SLFP promise to bring schools under a central system that would give a national stamp to the education imparted was fulfilled by Mrs. Bandaranaike in the sixties.

Following the 1960 elections the government announced its intention to take over all state-aided denominational schools, unless they chose to remain private without financial assistance. Those who desired to remain private could not also levy charges from pupils who had already joined the institution on a non-fee basis. The net result was that the majority of schools so nationalized were those previously run by Christian organizations, though the latter did decide to retain some of their best secondary schools as private fee paying schools. The beneficiaries of education in the private fee paying Christian schools came mostly from the elite and wealthy families. Hence Christian privilege though diminished was not eradicated. The majority of private teachers' training colleges run by Christian bodies were also similarly taken over by the government. By comparison with the Christian schools, the private schools run by Buddhist organizations readily participated in the takeover, because now under governmental sponsorship their Sinhala-Buddhist identity would be further enhanced. The takeover of the majority of schools, combined with the switch to the mother-tongue as the medium of instruction which was achieved in all primary and secondary schools by 1967, was perhaps the most substantial accomplishment of the programme dedicated to restoring the rights of the religion and language of the majority (Tambiah 1992:65, Wilson 1966).

Currently there are an estimated 10,000 government schools in Sri Lanka of which 70.6% are Sinhala schools and 28.7% are Tamil-language schools. Private sector involvement is small with only about 3% of pupils enrolled in private schools (Wickrema and Colenso 2003). The high proportion of state-owned schools has given rise to several problems. One is a curriculum which gives predominance to the history and culture of the Sinhalese and to Buddhism (see below). The other problem relates to the admissions policy of some of the more prestigious government schools which give preference to Buddhist students. In fact when the Chandrika Kumaratunga government in 1999 proposed to ensure equal opportunity in education for all students irrespective of race, religion, gender, etc., massive protests by the Sinhala-Buddhist lobby and petitions against the bill in the Supreme Court forced the government to shelve it. One of the petitioners claimed that such legislation would force the principal of a Buddhist school to provide facilities to perform rituals related to other religions that may be in conflict with Buddhism (Satkunanathan 1999).

There are also media reports from time to time of Muslim students facing harassment over wearing hijab¹⁹ or the skull cap in government schools. Following reports that some principals of government schools were not allowing their students to wear the hijab, the Ministry of Education had to issue a circular (No. 37/95 dated 15 December 1980) to the effect that “Muslim students should be permitted to wear the traditional Punjabi suit [*sic*] to school at their own discretion”. Despite this circular, some principals still take the law into their own hands. Most recently in October 2008, it appears that Muslim girls at the Sir Baron Jayatilaka Vidyalaya in Panchikawatte were not allowed to wear trousers underneath the uniform until the above circular was brought to the notice of the principal of the school. Even after, it appears that JHU elements were putting pressure on the principal not to allow the Muslim students to wear the hijab. Namini Wijedasa reports that the JHU took the view that this was a Sinhala-Buddhist school named after a Sinhala-Buddhist leader and the handful of Tamil and Muslim students must follow the uniform worn by the majority Sinhala students (Wijedasa 2008). Two months later, a report that six government schools had banned Muslim girls from wearing hijab to school was refuted by the Minister for Education. Tisarane Gunasekara reports of an incident where a principal in a school in Galle (a city in the south of the country) had ordered the father of a Muslim pupil out of his office for wearing a prayer cap.²⁰

2.4 Land and Other Related Issues

Land is another contentious issue between the competing nationalisms in Sri Lanka. While Sinhala-Buddhist nationalists lay claim to a unitary state, Tamil nationalists link their identity to a well-defined geographical region comprising the Northern and Eastern Provinces of the island which is considered their historical and traditional homeland. Prior to the militarization of the conflict – peasant colonization of areas traditionally occupied by Tamils and Muslims was a major grievance of Tamils who claimed that Sinhalese colonization of Tamil districts was willfully carried out to change the ethnic and political character of Tamil areas and to deny Tamils the right to claim any district on the island as their traditional homeland.

Between the 1930s and 1980s government expenditure on development was heavily focused on irrigation projects, land development and peasant colonization. Major new irrigation projects were constructed in the North Central and Eastern part of the island and Sinhalese peasants from villages in the densely populated South West and Central parts of the island were settled in these newly-developed but sparsely-populated regions. The largest of these were the Gal Oya project in the 1950s and the Mahaweli Development Scheme in 1980s. Politically these schemes earned the loyalty and support of the rural population for Sinhala politicians who were seen as paternalistic benefactors.

Ideologically this process was driven by comparisons to Sinhala warrior kings who had united Sri Lanka in ancient times and who had presided over a golden age of agricultural prosperity

¹⁹ The word hijab refers to both the head covering traditionally worn by Muslim women and modest Muslim styles of dress in general.

²⁰ Searching for Enemies, *Asian Tribune*, 14, 12, 2008, <http://www.asiantribune.com/node14686>

which had been a haven for the Sinhalese and for Buddhists (Shastri 1997: 141). Even after the militarization of the Conflict, in the mid-1980s, the government forcibly attempted to carve out Sinhalese colonies south of Mullaitivu and north of Trincomalee. In the Mullaitivu District, Manal Aru, which was initially inhabited by Tamil peasants, was transformed into a Sinhalese colony and its name was changed to Weli-Oya. Similarly, Thannimurippu in Trincomalee North became a Sinhala colony by the name of Janakapura.

These resettlement policies of different governments had a significant impact on the ethnic composition in the North and East and politically weakened Tamils and Muslims who had enjoyed a majority status within some of the Eastern and Northern Districts. With the resettlement of Sinhalese, Tamils fell from the majority position of 51% in 1921 to 41% by 1981. The Muslim proportion of the population fell from 41% to 35% while the Sinhalese rose from 8% to 31% (Shastri 1997: 142). As more and more land was liberated from the LTTE in the most recent military offensive between the period 2007-2009, recolonisation and the designation of economic development zones has again become a real concern leading to displacement of Tamils and Muslims from lands originally inhabited by them (Fonseka and Raheem 2008).

Recent reports on land issues in the East indicate that following the liberation of the East from the LTTE, certain parts of Trincomalee district have been designated high security zones depriving civilians displaced from those areas the right to return. Mutur East/Sampoor High Security Zone declared by gazette of 30th May 2007 had been home to around 15,000 civilians, predominantly Tamil, in 12 villages. The Supreme Court has already dismissed two fundamental rights petitions against the attempt by the Government to take away the land of those forced out of the Sampoor area by shelling. The petition was dismissed on the simple grounds that the Court cannot adjudicate on security matters (UTHR 2007, Fonseka and Raheem 2008). University Teachers for Human Rights (UTHR) draws attention to the fact that these exclusive zones in the North-East are reminiscent of the other attempts to carve out Sinhala areas in the mid-1980s with some variation in the methods used. The report goes on to say,

The standard method of Sinhalisation involves a combination of brute force (military, paramilitary and hoodlums), politically amenable Government Agents for the Districts of Trincomalee and Amparai and ideologically motivated scholars (JHU-types) who identify ancient Buddhist remains to impose Sinhalese-Buddhist claims on the land. The latter are now busy finding Buddhist antecedents, actual or fraudulent, in Sampoor and Pottuvil.

Thus it appears that Buddhist ruins now provide an innovative way to claim land previously owned by Tamils or Muslims in order to plant a Sinhalese colony, and carve out a new Divisional Secretary's division from which Muslims and Tamils would thereafter be administratively excluded. In addition, it is reported that Divisional Secretaries are instructed by the Government Agent, who in the districts of Trincomalee and Amparai has from the 1960s always been Sinhalese although the populations are more than 60% Tamil-speaking (UTHR 2007).

A recent decision of the Supreme Court has further undermined the search for a political solution to the conflict in Sri Lanka. In October 2006 in a case filed by the JVP, the Supreme Court ruled that the merger of the north east under the 13th amendment to the constitution is unconstitutional (Dias 2006). This decision is another manifestation of the Sinhala-Buddhist preoccupation with maintaining the unitary nature of the Sri Lankan state.

2.4 Christians under Siege

Despite the anti-Christian nature of the early revivalist movement and dominance of Sinhala-Buddhist majoritarian ideology which has driven politics for well over 30 years, relations between the different religious groups in Sri Lanka have been relatively peaceful in the post-independence period. This religious coexistence have however begun to deteriorate again in recent years largely due to perceptions surrounding unethical conversions by Christian evangelical groups and a strong Buddhist lobby which is seeking to protect the majority religion from such conversions.

Increasingly Sinhala-Buddhist nationalists are putting pressure on the government to address the “problem” of the growth of Christian churches and organizations that are using aid to entice or coerce vulnerable people to change their religion on the basis that such conversions are jeopardizing the nation’s Buddhist identity. JHU leader Omalpe Sobhitha Thero has been quoted as saying that the two greatest threats facing Sri Lanka are the Tamil Tigers and U.S.-funded Christian missionaries. Anti-missionary sentiment intensified following the 2004 tsunami, which brought an influx of foreign Christian aid workers, some who were involved in proselytizing²¹. An independent commission appointed in 2003 to examine allegations by the Ministry of Buddhist Affairs, accused 188 NGOs of engaging in unethical conversions.

While Art 9 of the Constitution gives Buddhism the foremost place and places a duty on the state to protect and foster it, the constitution also places a duty on the state to assure to all other religions the right to freedom of religion and freedom to manifest a religion. The fundamental rights chapter of the Sri Lanka constitution further protects the freedom of religion in Art. 10, Art 12 and Art 14 as follows:

Art. 10. Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

Art 12. (1) All persons are equal before the law and are entitled to the equal protection of the law.

(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds.

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one such grounds, be subject to any disability, liability, restriction or condition with

²¹ Anti-Conversion Bill in Sri Lanka, January 14, 2009 <http://solofemininity.blogspot.com/posts/2009/01/anticonversion-bill-in-sri-lanka.html>.

regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

14. (1) (e) Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching.

Not all rights guaranteed under Chapter III of constitution are however absolute. While freedom of thought, conscience, and religion in Article 10 are unrestricted, Art 12 and 14 are subject to Art 15 (7) which allows restriction of these rights in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society.

In this context, the right to freedom of religion appears to be seriously threatened in Sri Lanka both by judicial decisions of the highest court of the land – the Supreme Court - which has sought to deny the incorporation of Christian religious organisations as well as by proposed anti-conversion legislation.

2.5 The Incorporation Cases

In three cases which have been filed in the Supreme Court in 2001 and 2003, (See *Christian Sabanaye Doratuwa Prayer Centre (Incorporation)*, SC Special Determination No. 2/2001, *New Wine Harvest Ministries (Incorporation)*, SC Special Determination No. 2/2003 and *Provincial of the Teaching Sisters of the Holy Cross of the Third Order of the Saint Francis Menzingen of Sri Lanka (Incorporation)*, SC Special Determination 19/2003) the Supreme court ruled that three private members' bills for the incorporation of Christian bodies were unconstitutional. No specific behaviour that had actually led to unethical conversions was at issue. Rather the challenges were focused on the potential of unethical conversions. The arguments and the decisions in all three cases were largely the same; that combining religious objectives with economic and commercial activities (such as providing assistance and uplifting the socio-economic conditions of those attending the centre by providing job training) would necessarily result in a distortion of the right to freedom of religion given the potential for conversion due to allurements (Owens 2007).

The three bills sought to incorporate three different Christian organisations – something necessary to gain corporate legal personality which was not something out of the ordinary for a religious organisation. In fact numerous other such organisations have been similarly incorporated. The objectives of the proposed incorporation set out in the 2001 bill which are substantially similar to the objectives of the bills presented in 2003 were to: encourage the active observance of Christianity, to provide material and spiritual assistance to address as well as to vest these organisations with financial powers, including the right to hold and alienate property.

In each of the cases the petitioners argued that the inclusion of economic and commercial activities, in addition to religious ones, and that giving such organisations financial powers would necessarily result in conversions through allurements. The Supreme Court agreed on each occasion that the right to freedom of thought, conscience and religion contained in Art 10 of the constitution should be protected against any allurements which distort the choice to adopt a religion or belief of a person's choosing and that economic and commercial activities of the organisations would do just that.

In the *Menzingen* case which was the last case to be filed, the bench not only followed its own precedent, but went further for the first time invoking Art 9 of the constitution which gives Buddhism the foremost place. The court interpreting the interaction of Art 9 with other fundamental rights provisions relating to freedom of religions held that the propagation and spreading of Christianity would not be permissible as it would impair the very existence of Buddhism. Welikala critiquing this judgment states that 'as constitutional adjudicator, the Supreme Court had a duty to bring the Constitution into democratic modernity instead of invoking Article 9 twenty five years after its promulgation'. (2003).

The Christian order of nuns whose work was impacted by this decision took the case to the UN Human Rights Committee which held that the decision was in breach of Art 18(1) and Art 26 of the International Convention on Civil and Political Rights (ICCPR). The Committee also ordered the Sri Lankan state to provide an effective remedy to the sisters. The present government has continued to refuse to recognise the sisters' right to incorporation and in a decision of the Supreme Court given in 2006, the court has held that Sri Lanka's accession to the Optional Protocol to the ICCPR, which permits individuals to submit complaints directly to the Human Rights Committee, was unconstitutional and that consequently individuals "cannot seek to 'vindicate and enforce' [their] rights through the [HRC]". This decision effectively nullified Sri Lanka's obligations under these and other international human rights treaties (Beckert Fund for Religious Liberty 2008).

2.6 Anti-Conversion Legislation

Calls for anti-conversion legislation in Sri Lanka began to appear during this same time, first by a Buddhist lobby led by the Minister for Justice, Law Reform, National Integration and Buddha Sasana and then taken up also by the JHU party which entered parliament following election in April 2004. As a result by mid-2004, two draft anti-conversion bills had emerged. The Government of Sri Lanka (GoSL) bill was presented to cabinet in June 2004 but was only gazetted a year later on June 27, 2005. This bill remains to be placed on the order paper of parliament. The JHU bill was gazetted on May 31, 2004, and placed on the order paper of parliament on 21 July 2004 (Owens 2004).

In terms of JHU 'Bill for the Prohibition of Forcible Conversions', any person found guilty of using force, allurement or fraudulent means to convert a person to another religion would be punishable with imprisonment for a period not exceeding five years and a fine not exceeding Rs 150,000 (about USD 1,335). Schedule I referred to in Section 4 (a) of the bill further states that a person

found guilty of converting a minor, a woman, a Samurdhi beneficiary, a prison inmate, inmates of rehabilitation and detention centers, physically and mentally disabled persons, employees of an organization, members of the armed forces or police, students, inmates of hospitals and or places of healing and refugee camps and any other category as may be prescribed by the Minister of the subject by regulations, is punishable with imprisonment for a period not exceeding seven years and also liable to a fine not exceeding Rs 500,000 (USD 4,450 approximately).

Following the JHU Bill being placed on the order paper of parliament, 21 petitions challenging the bill were filed in the Supreme Court. In August 2004, the Supreme Court ruled that two of the bill's articles were unconstitutional. i.e. Sec. 3 which made it mandatory to report a conversion to the Divisional Secretary and Sec. 4(a), which made it an offence with the penalty of imprisonment and fine, where one failed to meet the terms of Sec. 3.

In an attempt to circumvent the Supreme Court Decision the JHU later proposed to change the constitution itself. The proposed 19th Amendment to the Constitution which was presented in Parliament in November 2004, sought to replace Art. 9 of the Constitution which gives foremost place to Buddhism with a provision making Buddhism the official religion while prohibiting conversion of Buddhists to other religions or the spreading of other religions among Buddhists. This amendment was also successfully challenged in the Supreme Court. Undeterred by these decisions, the JHU redrafted the bill in accordance with the Supreme Court decision of August 2004 and tabled it again in parliament in 2009. The debate on the bill has however now been suspended after a parliamentary committee comprising Christian Parliamentarian and leaders of political parties argued that it might have serious consequences on religious activities, spark inter-religious conflict and possibly violate the country's constitution. Pandu Bandaranayake, the Minister of Religious Affairs, has confirmed that Christians have called for more clarity on some words in the bill and that despite opposition from the JHU, the bill will be re-examined by the religious consultative committee of his ministry (Uchime 2009).

As Asma Jahangir, the UN Special Rapporteur on Religious Freedom points out, questions related to change of religion are at the heart of the mandate on freedom of religion and belief. The most troubling aspect of the anti-conversion legislation in Sri Lanka is its criminalizing of a central principle of religious liberty – the ability to freely choose and change one's religion. While recognizing that there may be a need to protect against unethical conversions, the question is how state should respond to these concerns and at what point the state should have a right or a duty to intervene in order to protect freedom of thought and religion. Tad Stahnak has described the task facing states in this regard as a fine line between securing minimum conditions for a free choice of religion and beliefs and protecting against the erosion of the ability to maintain the religion or belief that has been chosen. The line being walked in Sri Lanka is far from one that secures and protects fundamental rights (Owens 2004:324 – 325).

2.7 Laws that Never Were

Just as much as Sinhala Buddhist nationalist ideology has informed and influenced laws, policies and practices intended to privilege the majority community and consolidate their power, it has also successfully prevented the passing/implementation of laws/policies considered inimical to their interests.

Devolving /decentralising Power to the North and East

The armed conflict in Sri Lanka between the Liberation Tigers of Tamil Eelam and the GoSL was the result of laws and policies (discussed above) by successive post independence governments which privileged the majority community and discriminated against the minorities and an unfulfilled demand, by the Tamil minority, for greater political autonomy in the North and East. Efforts to devolve power to the North and East following independence first in 1956 in terms of the BC Pact and then in 1966 under the DC Pact failed due to Sinhala Buddhist protests. District Development Councils proposed in 1980 which would have gone some way to alleviate Tamil grievances also became a dead letter contributing to the militarization of the conflict in 1983. Power was eventually devolved to the provincial level under pressure from India under the terms of the ISPA of 1987. Under ISPA, the J.R. Jayawardene government amended the Constitution to address the discriminatory language policies and also to devolve power to a system of provincial councils despite opposition from nationalist forces. In substantial terms, the ISPA made provision for the temporary merger of the North and East (in recognition of the Tamil claim that the two provinces constitute areas of historical habitation of the Tamil people) and established a North East Provincial Council (NEPC) with limited autonomy (without fiscal powers and subjects such as policing and land settlements). A Governor appointed by the centre had extensive powers of intervention and control. Although the LTTE reneged on the terms of the ISPA and went to war with the India Peace Keeping Force (IPKF) which was deployed to monitor the terms of the Agreement, elections to the NEPC were held in 1988. It however only functioned for a brief period, before collapsing following a unilateral declaration of Independence by the Chief Minister amidst allegations that the government was trying to undermine the administration (Bose 2007: 32-34).

In the context of the failure of the NEPC, the devolution debate did make significant progress in the 1990s. Both major political parties driven by governmental and economic necessity, and leadership changes made certain policy shifts to recognize the legitimacy of Tamil grievances and the need for a political solution beyond provincial councils.

Failed Attempts to Devolve Power to the North and East

1958: BC Pact

The BC Pact comprised three elements – reasonable use of Tamil language, limited devolution of power to Regional Councils and constitutional amendments to guarantee the fundamental rights of minorities. It was agreed that provision would also be made for Regional Councils to merge with other units beyond their provincial limits. J.R Jayawardena and the UNP rallied Sinhala-Buddhist opinion in protest. SWRD eventually abrogated the pact leading to a fresh cycle of civil disobedience which sparked the deadly riots of 1958.

1965: DC Pact

In 1965, the UNP was forced to enter into an agreement with the Federal Party to ensure for them a majority in Parliament. The DC Pact covered familiar ground offering use of Tamil to the North and East for administrative and court matters and a framework for creating district council with power to be allocated after further negotiations. Compared to Regional Councils under the BC Pact, District Councils had fewer powers and were limited to smaller territorial units. The DC Pact also covered issues involving the Land Development Ordinance and colonization prioritising landless Tamils rights to resettlement in parts of the North and East.

(ICJ 2007: 6, Nubin 2002: 65)

1980: District Development Councils

District Development Councils (DDCs) were proposed by the J.R.Jayawardena government following a Presidential Commission to inquire into and report on the existing structure of local government with a view to ascertain the manner in which economic development activity in a district could be planned and coordinated at the level of the district through District Ministers and Development Councils. Legal provision for the Councils was to be through the District Development Act of 1981. Although there was no explicit intention to address Tamil demands for devolution, the Tamil United Liberation Front (TULF) supported setting up of these councils as an interim solution.

The DDCs were to comprise central level Members of Parliament, representing the relevant district and elected members at the district level. Its functions included the approval of an annual development plan, and its implementation through a committee headed by a district Minister. Town and Village Councils were to be abolished.

The process of establishing DDCs was replete with problems and even once they were set up there was a lack of political will to properly implement resulting in their failure (Gunawardena and Lakshman 2008).

2000: Draft Constitution

Chandrika Kumaratunga Bandaranaike who was elected president on a platform of peace and human rights proposed the most far reaching devolution proposals in Sri Lanka's history in 1995. Although it was diluted twice in 1997 and 2000 following multi-party negotiations, the 2000 Draft Constitution nevertheless made provision for substantial devolution of power and has been said to be 'federal in all but name'. The list of subjects over which the central government and the provinces had concurrent legislative power was dropped. A nominated interim council was proposed for five years for the North and East which was to remain merged for 10 years and then be subject to a referendum (ICJ 2007).

President Kumaratunga (CBK) of the SLFP in 1994 campaigned on a platform for peace and entered into negotiations with the LTTE. Even though the talks with the LTTE later collapsed, she went on to unilaterally draft a new constitution which devolved power to the regions, amidst bitter opposition from nationalist forces and the UNP. The Draft Constitution of 2000 devolved substantial power to the regional unit. Although it had emerged through cross party deliberation, the UNP, the sangha and the JVP joined hands to block its passage and CBK was forced to abandon it as she did not have the requisite majority in parliament to enact it on her own.

During the most recent effort to bring peace to Sri Lanka which commenced with a Norwegian facilitated formal ceasefire between the GoSL and the LTTE in February 2002, the two parties agreed 'to explore a solution founded on the principle of self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka'.²² The decision was hailed as a major breakthrough which marked a shift in the LTTE's position from separatism to self-determination as well as a willingness on the part of the GoSL to consider constitutional reforms to accommodate a federal system of power sharing. Following the LTTE withdrawal from the peace talks, and continuing human rights violations, support for a federal solution fast diminished within the southern polity.

By the 2005 presidential election, SLFP and its presidential candidate had retreated back to a militant Sinhala nationalism and begun to reject any notion of power sharing except in the form of minimalist administrative decentralisation accompanied by strong political mobilization in favour of militarily defeating the LTTE. Although the President appointed an All Party Representative Committee (APRC) in June 2006 to forge a southern consensus for a political solution to the ethnic conflict with the assistance of an experts committee, and the final report of the APRC was handed over to the President in June 2010, there has been no follow up on this process.²³

Devolution has been a consistent demand of Tamils since pre-independence and as the conflict has continued over the past 30 years the demand has been for more devolution, not less. For Sinhala Buddhist nationalists (both lay and monk) any kind of power sharing amounts to the division of the country. As Welikala (2005) points out:

In employing a powerful idiom of the centralisation of State-power, nationalism interpolates the glorious historical paradigm of the ancient Sinhalese monarchy, patron of the people and protector of the faith, onto the modern institutions of democratic government. The greatest characteristic of a truly heroic occupier of the Sinhala monarchical paradigm was the overthrow of foreign domination (usually Dravidian invasions but subsequently Western powers as well) and subsequent 'unification of the

²² See Statement released by Royal Norwegian Government, 5 December 2002, <http://www.peaceinsrilanka.org/peace2005/Insidepage/Pressrelease/RNG/RNG5thDec.asp>

²³ In fact, in July 2010, two members of the APRC Mr. P.Yogarajan (Member of Parliament) and Mr. Nizam Kariapper (Deputy Secretary General of the Sri Lanka Muslim Congress) released a final report of the decisions taken by the APRC in the absence of such follow up.

country' under a single, central authority. This is the imperative pre-condition of the good life: peace, stability, economic progress and cultural renaissance . . .

On the other hand, dilution of central authority, often derisively attributed to vapid leadership in Sinhala historiography (hagiography?), was seen to produce anarchy, pestilence, moral decadence and cultural degradation. Therefore centralised unity related to territorial integrity is axiomatic in the traditional Sinhala ontology of the State and exercise of sovereignty, and explains its resonance in the modern nationalist hostility, not only to any sort of political power-sharing, but also to the accommodation of plural identities as constitutive elements of the State. Federalism, for example, in the Sinhala nationalist view, is a mere precursor of an unthinkable certainty: the territorial division of the island.

Equal Opportunity Legislation

The Equal Opportunity Bill of 1999 is another piece of legislation which was bitterly opposed by Sinhala-Buddhist nationalist elements (among others) and which therefore had to be shelved. The objective of the bill was to ensure equality of opportunity to all persons living in Sri Lanka irrespective of ethnic, religious, gender and other differences. It was drafted by the Kumaratunga government following advocacy by civil society organisations and particularly the International Centre for Ethnic Studies (ICES). The legislation outlawed discrimination in five different areas – employment, education, access to places and means of transportation, accommodation and provision of goods and services and sought to specifically,

- Promote equality of opportunity, and the recognition . . . of the equality of all person regardless of their ethnicity, gender, religious and political opinion, language, caste, age or disability;
- Eliminate discrimination either direct or indirect against persons on the ground of ethnicity, gender, religious or political opinion, language, caste, age or disability and to take effective measures to protect and advance persons or categories of persons disadvantaged by discrimination on one or more such grounds;
- Ensure the realisation of equality of opportunity in the workplace in relation to both ethnicity and gender (Satkunanathan 1999).

The bill also envisaged the establishment of an Equal Opportunity Commission to receive and investigate complaints and resolve them through conciliation, and an Equal Opportunity Tribunal, a quazi judicial body, that would hear appeals and other matters referred to it by the Commission. The rationale of the bill was to create a less expensive, more expedient method of obtaining relief in situations of discrimination while also widening the scope of the non-discrimination clause in the constitution to include private actors not covered by the constitution (Satkunanathan 1999).

The bill was placed on the order paper of parliament in October 1999. Within seven days, 42 petitions were filed in the Supreme Court challenging the constitutionality of the bill. Soon after the government announced that it would not proceed with the bill. Equal opportunity in education proved to be the contentious provision, with many protests stemming from a fear that the more prestigious government schools which give preference to Buddhist students could be held accountable for discrimination in admissions to these schools (Satkunanathan 1999).

Post-Tsunami Operational Management Structure (PTOMS)

More recently, the Sinhala nationalist lobby mobilized and scuttled the implementation of the Post-Tsunami Operational Management Structure (PTOMS) Agreement signed by the GoSL and the LTTE in June 2006. The PTOMS agreement which had come about following a negotiation process between the GoSL and the LTTE in the immediate aftermath of the tsunami of 2004 recognised that a large part of the area devastated by the tsunami was in LTTE-controlled areas, and that effective rehabilitation and reconstruction of those areas would require cooperation and coordination between the LTTE and the GoSL. The agreement therefore sought to set up an administrative structure consisting of both GoSL and LTTE officials to implement and coordinate the relief, rehabilitation and reconstruction process in those areas.

The agreement was reached at a time when the 2002 peace process between the GoSL and the LTTE had broken down, although the ceasefire was still alive. While the LTTE's motivations to enter into such an agreement was very much driven by its desire to tap into donor funds for tsunami rebuilding work, which it would otherwise not have had access to, if implemented it may have led to building confidence between the two parties and perhaps even a revival of the peace process.

Negotiations on the PTOMS commenced in January 2005 and agreement was reached by April that year. Once the details of the agreement became available in the public sphere, the opposition to the agreement began to be articulated from various segments of Sinhala Buddhist extremism. By June, opposition to the agreement, mainly from the JVP and JHU, had escalated and also spilled onto the streets of Colombo. Ven. Dr. Omalpe Sobhitha Thera, Member of Parliament (MP) of the JHU and Ven. Dambara Amila of the JVP embarked on death fasts in protest. Ven. Omalpe Sobitha commenced his fast unto death on 6th June at the Mahamaluwa opposite the Dalada Maligawa, in Kandy, but terminated his fast on 11th June, upon assurance that the President would not sign the PTOMS Memorandum of Understanding (MOU) without consulting the Mahanayakes of the three nikayas. Ven. Dambara Amila commenced his fast on 11th June in front of the Fort Railway Station in Colombo and was later admitted to hospital by a group of Buddhist monks when his condition turned critical. In mid-June, the JVP withdrew its support of the government, but the President nevertheless went ahead with her decision to sign the PTOMS on 24 June 2005.

Three cases were thereafter filed in the Supreme Court by the JVP, the JHU and by Muslim individuals. The Supreme Court in an interim order given in mid-July while affirming that the President has the power to enter into such agreements, even with the LTTE, issued a stay order on some of the provisions. Before the case could be concluded, Mahinda Rajapakse became president on the election promise that he would not go ahead with implementing the PTOMS and that he would be establishing a new Tsunami Reconstruction administrative infrastructure.

3. Reproducing and Propagating the Ideology

Suthaharan Nadarajah points out that the hegemony of Sinhala Buddhist values emanates from several sources: the state, the Buddhist clergy, Sinhala political parties, and the Sri Lankan military (2005: 52). I would add that it also emanates from certain sections of 'civil society' itself. These actors have a variety of different means through which to articulate and propagate their values and worldview – including religious, educational and media institutions and practices. This includes both overt propaganda or forms of conscious persuasion as well as more subtle ways in which people are brought to see themselves and their relations to other people and the conditions of their existence. Here I focus on two major sources which have enormous influence in shaping attitudes and world views – the media and the national education system. One other mode of dissemination not analysed in this paper due to time constraints and lack of secondary information, but of which mention must be made is the Buddhist temple. Earlier sections of this paper referred to the powerful role played by monks as advocates of Sinhala-Buddhist nationalism. It is therefore logical to assume that the temples inhabited by these priests also play an important role in disseminating certain ideas about the nation state and the place of Sinhala Buddhists within that nation state among its lay community; and this deserve some study.

3.1 The Media

The media came to play an important role early in the Buddhist revivalist movement and later in the Sinhala-Buddhist nationalist movement. The revivalist movement began with using the same methods (use of public media and preaching) which the missionaries had used to propagate Christianity. Two printing presses were started to publish replies to Christian criticism leveled against Buddhism.²⁴ Encouraged by the success of such counter attacks, the monks of the revivalist movement then engaged in direct public debates with the missionaries regarding the relative merits of the two religions (Phadnis 1976: 67, Kariyawasam 2003, Kloppenburg 2004).

²⁴ The first, established in Colombo in 1855 was an old press taken over from the Christians. The second was established in Galle, in 1862 and was named the Lankopakara Press. The main authors whose works were published by these presses were Ven. Migettuwatte Gunananda in Colombo and Ven. Hikkaduwe Sri Sumangala in Galle. Kariyawasam takes the view that two publications that came out of it, namely "*Labdhi Tulawa*" and "*Agama Pariksavva*" did manage to send some kind of shock waves through Christian missionaries.

The Buddhist Theosophical Society (BTS) started the *Sarasavi Sandaresa* magazine in 1880 which was later managed by Anagarika Dharmapala when he became President of the Theosophical society. Dharmapala went on to found and edit *The Buddhist* in English in 1888 to complement Sandaresa, and the *Sinhala Bauddhaya* in Sinhala in 1906. It is in the latter that he gradually unveiled, mostly by means of his critique of the existing state, an ideal Sinhala Buddhist society that existed until the end of the Sinhala monarchy in 1815 and which now needed to be revived. (Gokhale 1999: 38 -38, Seneviratne 1999:29). The *Sinhala Jathiya* founded and edited by Piyadasa Sirisena was not only anti-colonial but also urged the Sinhalese to refrain from transactions with the coast moor, the cochin and the foreigner. In 1915 following the anti-Muslim riots, the *Sinhala Jathiya* and *Sinhala Bauddhaya* were both banned (Jayawardena 1985:13, Savanadasa 2007). The Vidyalkankara monks started their own weekly in Sinhala entitled '*Kalaya*' in March 1946, in order to counteract the arguments of the press which seemed to be almost uniformly against the bhikkhus participating in politics. The main theme of this was that politics was not merely about government and administration but combined all social activities, etc (Phadnis 1976: 165 - 164).

The importance attributed to the media by the Sinhala-Buddhist nationalist movement was also evident in the interest they took in the Press Commission appointed by Mrs. Bandaranaike in 1963 and the mobilisation against the nationalisation of the press in 1964. Wilson states that when the Commission commenced its public sittings almost every Buddhist organisation in the country which came before it was critical of the workings of the Ceylon press. Their evidence was overwhelmingly that it was Christian dominated, westernized, anti-national, spiteful of Sinhalese culture, contemptuous of Buddhism, etc. They wanted private ownership of the press at the time to be disbanded and to be placed in the charge of a broad-based corporation which would have adequate Buddhist representation. They were not however in favour of state control of the press. The Commission in its interim findings issued in August 1964 endorsed the criticism and recommended that an independent Press Council should be established and thereafter the newspapers should be placed in the hands of a state corporation (Wilson 1966: 524)

However when Trotskyists of the LSSP in the United Front Government wanted to take over the press, the move was met with widespread mobilisation of Buddhist organisations and monks who alleged that with Marxists in government the takeover of the press would spell the end of Sinhalese culture, Buddhist civilization and the *sangha*. Buddhist organisations which formed a joint action committee in November 1964 wanted an independent press council before introducing measures to nationalize the press. The government refused to back down from its position. Instead they presented the legislation in parliament together with a proposal which sought to guarantee Buddhism its proper place as the religion of the majority. The protestors were not appeased alleging that it was a plot to lull the Sinhala Buddhists into a false sense of security. The protests continued with all opposition parties also joining in (Wilson 1966: 525). In December 1964, the government was in fact defeated on the single issue of press nationalization. Bandaranaike, however, returned to power in 1970, and finally nationalized the Lake House group in 1973.

Given these antecedents, the Sinhala vernacular print media continues to be a significant and powerful site of reproduction and reinforcement of Sinhala Buddhist hegemony in Sri Lanka. A recent study of the Sinhala vernacular print media makes the point that most Sinhala newspapers (apart from rare exceptions like *Ravaya*) publish from within the near-hegemony of Sinhala-Buddhist values and have been fostering a dialogue of hatred between the various communities, that coverage in all sections of the vernacular press reflects an ongoing essentializing of ethnicity, and that existing communal and ethnic tensions are exacerbated by playing on nationalist and religious emotions of the people. It goes on to state that no distinction is generally made between Tamils and the LTTE. While both are considered a threat to the prevailing national order, considerable coverage and editorial space is devoted to the LTTE's terrorism and little if any to the notion of Tamil grievances (Nadarajah 2005: 49 – 51).

Quite apart from the print media, today's champions of Sinhala-Buddhist nationalist ideology have access to a much broader array of communication tools. Before his death in 2003, the venerable Gangodawila Soma (1948–2003), a charismatic and skillful preacher, employed a variety of media to reverse the perceived decline of Buddhism and the nation in the face of what he saw as immoral and hostile forces including corrupt politicians, Tamil separatists, evangelical Christians, and NGOs. As Ajith Samaranayake (2003) points out in an article after the Bhikkhu's²⁵ death,

He was very much a product of the media for it was the Government-managed IT²⁶N through the series called 'Andurin Eliyata' and the newspapers which provided him with a platform. Through these agencies he was able to address a wide audience and secure instant popularity quite disproportionate to his late appearance on the national landscape having lived for long in Australia. He was Sri Lanka's first television bhikkhu.

The rise of the JHU among the urban and suburban middle classes has also been linked to the spread of print and television media (Rampton and Welikala 2005: 46).

3.2 The Education System

Following the nationalisation of schools in the 1960s, the education system is the other arena which has played a role in reproducing, reinforcing and perpetuating Sinhala Buddhist ideology and hegemony in Sri Lanka (Canegaratne 2006, Rajagopalan 2001). It is now well recognised that schooling and education can play a role in fostering a shared sense of national identity which is inclusive and respectful of diversity or in exacerbating social divisions and identity-based conflicts (Tawil and Harley 2004). In Sri Lanka, nationalisation not only led to a segregation of schools along the lines of language and ethnicity, thus severely limiting the opportunities for interaction between Sinhala and Tamil children and youth

²⁵ Fully ordained male Buddhist monastic

²⁶ Independent Television Network

and increasingly alienating Tamil and Sinhala students, but facilitated the development of a curriculum which was biased in favour of the majority community and insensitive of the minorities.

Publication of text books were taken over by the state in the 1960s (Wickrema and Colenso 2003). The dominant historical image portrayed in textbooks and conveyed through the curriculum was that of a glorious but embattled Sinhalese nation repeatedly having to defend itself and its Buddhist traditions against the ravages of Tamil invaders. Tamils were portrayed as historical enemies. National heroes were chosen whose reputations included having vanquished Tamils in ethnic-based wars. Segregated in their own schools, Tamil textbooks emphasized historical figures whose reputations included accommodation and compromise with the Sinhalese. In neither the Tamil nor the Sinhalese texts were there positive illustrations drawn from the other ethnic group. There were few attempts to teach about the contribution of Tamil kings to Buddhist tradition, or the links between Sinhalese kingdoms and Buddhist centres in India. Language texts were largely monocultural (Siriwardena 1984, Rajagopalan 2001).

The readers in the early grades are based on the experiences of a family, its friends, relations and neighbours; and the characters, way of life, festivals and practices presented in these readers are confined to a Sinhala Buddhist milieu. Even the evidence of Sinhala Christian children, a large number of whom study these books, is ignored. In fact if a child's knowledge of Sri Lanka is confined to these readers, he would not even be aware that there were any people in Sri Lanka who were not Sinhala. The commonality between Sinhala and Tamil culture is cast aside. The New Year is simply the Sinhala New Year and there is even a lesson which starts with the rituals and observance of Sinhala New Year and goes on to describe corresponding festivals in India, Laos, Kampuchea, Japan, Burma and Germany. But nowhere is there even a mention of the fact that Tamils in Sri Lanka observe the New Year on the same day as the Sinhalese and with broadly similar practices (Siriwardena n.d).

GoSL Policy Framework for Addressing Social Cohesion in Education

“The national goals of education: The achievement of a functioning sense of national unity, national integrity and national cohesion” (First report of the National Education Commission, 1992).

“The educational process should seek to engender in impressionable minds the conviction that no ideology or approach constitutes the sole repository of truth” (First report of the National Education Commission, 1992)

“Concepts relating to stabilisation of morals, inculcation of values, appreciation of other social groups and cultures, and living in harmony will run as unifying threads through all three key stages [of primary education]” (General Education Reforms 1997)

“The broad curriculum framework should serve the needs of a . . . multicultural, pluralistic but nationally integrated society” (Curriculum Policy and Process Plan, 1999)

“Even if good schools and textbooks exist, they are unlikely to play a positive role if teachers are not properly trained to take into account the country’s multi-ethnic and multi-religious reality . . . Trainees should also be given the necessary teaching skills for serving in a multi-ethnic and multi-religious socio-political environment” (National Framework for Relief, Rehabilitation and Reconciliation in Sri Lanka, June 2002)

“Concept of social harmony, conflict resolution and democratic living will be integrated into the secondary and tertiary curriculum” (Regaining Sri Lanka: Action Plan 2002)

“The curriculum will be opened up to scrutiny by multi-cultural textbook review panels.” (Regaining Sri Lanka: Action Plan 2002)

Educational institutions cannot single-handedly achieve social harmony, but they have long-term effects in building and sustaining a culture of peace and non-violence. A national policy specifically on social cohesion and peace education is a vital strategy in Sri Lanka’s development (National Policy and a Comprehensive Framework of Actions on Education for Social Cohesion and Peace 2008)

(Source: Wickrema and Colenso 2003: 6 and Ministry of Education, 2008)

Although educational reforms were undertaken in 1972 and 1981 they failed to address issues of respect for diversity, multi-culturalism and the role of education in developing a peaceful and plural national identity. It was only in the 1990s that the National Education Commission (NEC), appointed in response to the Report of the Presidential Youth Commission, began to focus on the inter-relationship between education and social cohesion in Sri Lanka. The first report of the NEC published in 1992 established nine goals for education in Sri Lanka, the first of which was ‘The achievement of a functioning sense of national cohesion, national integrity and national unity’. Since the NEC report of 1992, government policy has consistently recognised the role of education in promoting diversity and peace-building (Wickrema and Colenso 2003: 6).

The educational reforms of 1997 which were based on the recommendations of the NEC in 1992 were grounded on enhancing life competencies and upholding the value of peace and social cohesion. The reforms attempted to identify the major divisive systemic features within the education system and recognized the need to address those problems through, for example, provision of bilingual education which could facilitate communication among Tamil and Sinhala students, the introduction of a multicultural perspective in designing curricula, etc. The decision to teach two official languages in all government schools as part of the core curriculum followed these recommendations (Tawil and Harley 2004).

Several reviews and assessment of the curriculum and textbooks in the late 1990s however still revealed a number of problems in the way subjects such as history, social studies and religion - subjects which strongly relate to developing social cohesion - were being taught in schools. The problems identified by a number of different studies can be summarized as follows (see Wickrema and Colenso 2003, Rajagopalan 2001)

- Textbooks failed to represent all communities. The history represented is the history of the Sinhalese kings, the Sinhala Buddhist nation state, and Sinhala Buddhist culture.

Pictures in text books represent Sinhala Buddhist art and culture; References to other religions is virtually absent.

- The way history is taught is eventcentred and prescriptive and does not encourage the student to take on a multiplicity of interpretations; textbooks are taken to provide the truth which students are meant to absorb as a given. There is no place for competing narratives; biases were present in the theoretical understanding of what constitutes history, in what constitutes identity, and in what is not referred to.
- Some historical events were ignored and others distorted. Myth and scientific evidence have been amalgamated.
- Avoids difficult issues relating to ethnicity and conflict.
- Social studies textbooks were less problematic than the Sinhala and religion text books which presented a mono-cultural Sinhala Buddhist world.
- Lack of capacity among teachers is a problem and even relatively objective texts can lose this quality in the hands of teachers from both communities who have no training in education for social cohesion.
- The textbook production process is also faulty. Tamils are not involved in the writing of textbooks, and Tamils textbook are written in Sinhala and then translated into Tamil

Since the education reforms of 1997, textbooks have been further revised. In addition, in 2003, the government appointed a 'Respect for Diversity Panel' with a mandate to objectively and expertly assess the sensitivity of textbooks in terms of ethno-cultural bias, gender, geography, etc. The Social Cohesion and Peace (ESCP) Unit of the Ministry of Education has also formulated a National Policy and a Comprehensive Framework of Actions on Education for Social Cohesion and Peace which has been approved by the NEC. The seven strategic areas identified, and the activities within them, are as follows:

- 1 **Curriculum:** Reinforcement of the importance to ESCP of the existing *Life Competences and Citizenship Education* (grades 6-9) and the *Citizenship Education and Governance* (grades 10-11) curriculum, but monitoring the impact of this through research, and reviewing as appropriate.
- 2 **Teacher Education:** Development of curriculum, manuals and other materials for use in teacher training, to ensure that every teacher is exposed to ESCP goals and can work to promote ESCP concepts and vision, both in their curriculum subjects and in terms of classroom relationships.
- 3 **Second National Language (2NL):** Strengthening of the provision of 2NL, through the development of a clear policy on 2NL and the establishment of a specific National College of Education for 2NL teachers

- 4 **Whole School Culture:** Development of a clear focus on a **school culture and ethos** that fosters peace and respect for rights, in the school and the community, so that schools can become designated as a **Peace School in the Community**, after fulfilling stringent criteria for this recognition.
- 5 **Integration:** Promotion of further integrated schools, and if not physically possible, more ways of linking schools and sharing experiences found, such as twinning. Every child should be guaranteed a 'peace experience' such as an exchange.
- 6 **Co-curriculum:** Strengthening and monitoring of co-curricular activities, including links with outside agencies, and using events and dialogues to promote intercultural understanding as well as skills of living in a democratic society.
- 7 **Research:** Creation of a research network, to bring researchers in ESCP together, both to develop a programme and to submit proposals for funding. An ESCP research grant fund should be established.

No recent assessments of these efforts were available and therefore it is not possible to comment on the impact that recent reforms have had on education for social cohesion. Writing in 2003, Wickrema and Colenso took the view that initiatives to promote diversity and multi-culturalism have been small-scale and peripheral to the mainstream of the curriculum, textbooks and material production, school management, teacher training, and structure and governance of the education system. Perera et al writing in 2004 also took the view that the extent to which the reforms have been designed to facilitate, and have actually facilitated the achievement of national goals and competencies for social cohesion, has not been examined adequately and qualitatively. Nevertheless, these policy commitments or aspirations have provided and should continue to provide a significant lever for efforts to promote respect for diversity in textbooks by actors external to the government education establishment (Tawil and Harley 2004:19, Wickrema and Colenso 2003:7).

4. Recurring Patterns of Collective Violence

Recurring outbreaks of collective violence against the ethnic and religious other of the Sinhala Buddhists have to be seen as yet another manifestation of Sinhala Buddhist hegemony. This is not to deny incidents of violence against the Sinhalese by other religious and ethnic groups or between other groups. However the preponderance of such incidents is by Sinhala Buddhists and directed against ethnic and religious minorities, mainly Tamils, Muslims and Christians. More recently foreign-funded NGOs have also been at the receiving end of Sinhala Buddhist violence. The violence referred to here encompass both mass violence spilling beyond geographical boundaries and incidents of more localised violence (Tambiah 1992, Jayawardena 1985).

The first violent communal riot in the history of Sri Lanka was in fact a riot between Buddhists and Catholics in April 1883 in Kotahena. Ven. Miguttewwathe Gunanada, a leader of the Buddhist revival movement whose temple was close to St. Lucia's Church had organised a

Buddhist ceremony which coincided with Easter week. The Catholics took this as a provocation and serious riots ensued. While the battle for supremacy over Christians continued at many different levels in subsequent years, through the media, through public debates, pamphlets, etc, this remained the only outbreak of collective violence against Christians by Buddhists until about a decade ago. Within the last decade, with the development of evangelical Christian activity in Sri Lanka, tensions between Buddhists and Christians have been ebbing and flowing and also manifesting in violent attacks against Christian churches of all denominations as well as priests. The violence has taken the form of complete destruction of some churches, the stoning of parsonages, the smashing of statues, and the burning of Bibles and hymnals (Christian Solidarity Worldwide 2004). Pastor Neil Edirisinghe from Ampara was also killed in 2008.

The first riot in Sri Lanka which occurred against Muslims happened in 1915 in the context of resentment against their domination of trade. Many hundreds died in the rioting and several middle-class Buddhist leaders were imprisoned by the British. While there has not been mass rioting in the scale of 1915 against Muslims, localized instances of collective violence does occur from time to time. In 2001 for example, a Sinhala-Muslim clash in Mawanella left two dead, several injured and much property destroyed.

The most serious attacks of collective violence by Sinhalese mobs have been against the Tamil community. Starting with the violence of 1956 which was sparked by protests against 'Sinhala Only', there have been a series of anti-Tamil riots thereafter in 1956, 1958, 1971, 1977, 1983, and 1987 causing deaths, mass displacement and destruction of property. Apart from mass rioting affecting many places – there are also many incidents of localized violence directed at the Tamil community. For instance in October 2000, 27 Tamil youth were massacred and 14 others were seriously injured in an attack that occurred in a rehabilitation centre for Tamil youth in Bindunuwewa. This attack was allegedly carried out by the local Sinhala community with the help of the local police. Local residents assaulted the inmates with clubs and knives after reports that they had taken a security guard hostage. Some victims were said to have been burned alive. In another incident in Trincomalee in 2006, a bomb blast which killed 16 people (eight Tamils, five Sinhalese, two Muslims and a person who could not be identified) prompted Sinhalese mobs to torch Tamil-owned shops and to hunt down Tamil civilians. The reprisal attacks claimed another five: four Tamils and one Sinhalese, who were burned, stabbed and shot to death. Whether the riots were spontaneous or planned is impossible to know, although the police and the army, deployed in full force around the market, did not manage to stop the mob. Some people who were arrested were released the next morning.

Attacks on churches in 2008

June 2008. Anti-Christian banners were mounted in Middeniya, Hambantota and an anti-Christian rally where a cross and picture of the Virgin Mary were burned.

June 24, 2008. Three men attacked and warned a Christian pastor, Rev. Fernando, not to return to his village in Ampara, while returning home from a church group meeting in Uhana.

March 2008. An armed Provincial Council member from Wennappuwa reportedly assaulted a security guard at the Pentecostal Believer's Church Bible College in Lunuwila, Puttalam District. Later on, masked men attacked the students and nine students were injured.

March 2008. A group of protesters prevented Christians from attending a Sunday service at the King's Revival Church in Mathugama, Kalutara District.

March 2008. Approximately 200 persons gathered outside the house of the pastor of Niyagama Bible Ministry in Galle District.

March 2008. The Zion Mount Prayer House in LTTE-held Mullaitivu was set on fire while the pastor, his wife, child, and two others were in the building. All escaped safely.

February 2008. Pastor Neil Edirisinghe of the House Church Foundation in Ampara was shot dead outside his house by two men on a motorcycle. The attackers also shot his wife and injured her young son.

February 2008. The house of a parishioner of the Independent Church in Weeraketiya, Hambantota District, was stoned while the pastor and his family were paying a visit.

Source: International Religious Freedom Report-2008 released by the Bureau of Democracy, Human Rights, and Labour of the US State Department, Santhush Fernando.

Anti-Tamil Violence

1956. The first was sparked by resistance to language reforms soon after the 1956 elections. On the day the 'Sinhala Only' legislation was presented in parliament, the Federal Party called for a *satyagraha* (non-violent resistance) at the Galle Face which led to a clash between the protestors and Sinhala Buddhist extremists. The violence then spread around the city. Small bands of Sinhalese roamed through the city looting shops and destroying property. Over 100 people were injured. Within a few days the riots also spread to Gal Oya, in the Eastern province where the previous government has settled a large number of Sinhalese in a predominantly Tamil area. Between 20 and 200 people were killed in the East (Tambiah 1992, Nissan and Stirrat 1990: 35)

1958. The outbreak of riots in 1958 was triggered when the national transport board sent a fleet of new buses to the North with Sinhala letters on the license plates and in the background of the protests by extremists groups against the BC Pact signed in October 1957. When the buses reached Jaffna, supporters of the Federal Party defaced them and substituted Tamil letters. In retaliation in

the south, Sinhalese gangs smeared tar over Tamil lettering on stores run by Tamils. The police were slow to restore order. Within twenty four hours thugs in the capital had got out of hand. Two large groups of defacers, one of them led by Bhikkus, systematically combed the city. During May and June the violence against Tamils continued spreading to Jaffna, Anuradhapura, Polonnaruwa, Batticaloa, Eravur and Kurunegala. An estimated 300-400 killed, over 2,000 incidents of arson, looting and assault were documented, and 12,000 Tamils were displaced. (Nissan and Stirrat 1990:36, Wriggins 1960:267 -268).

1977. The 1977 riots followed the landslide victory of the UNP at the 1977 parliamentary elections. Within a month of the elections serious rioting broke out following the killing of two policemen by Tamil militants. A train travelling from Jaffna to Colombo was stopped half way in Anuradhapura, where Tamil passengers were attacked and killed. Rioting then became widespread and lasted a month. Officially it was recognized that 100 people died and 25,000 people were displaced as a result of the rioting, although Tamil organizations have claimed that the death toll and displacement was much more (Nissan and Stirrat 1990:, Peace and conflict timeline).

1981. The next major outbreak of violence was in 1981 in a context where large numbers of Sinhala police were moved to the North to supervise local government elections. After a shooting incident, the police went on the rampage in Jaffna setting fire to areas of the town, killing and looting. The Jaffna Library, the depository of a large collection of rare and valuable Tamil books, was burnt to the ground. From Jaffna, the rioting spread to the east coast where Indian Tamils and refugees from 1977 were attacked. Estate areas and suburbs of Colombo were also affected (Nissan and Stirrat 1990:38).

1983. In 1983, a major outbreak of violence was directed at Tamils following the killing of 13 Sinhalese soldiers in Jaffna. The riots started on July 24 and continued till August 5. They started in Colombo but spread to other parts of the country particularly Gampaha, Kalutara, Matale, Nuwara Eliya and Trincomalee. Homes were burnt, shops were looted and many people were killed. The death toll is estimated to be between 300 and 2000 while close to 100,000 people were displaced in Colombo alone. The armed services, the police and thugs of the UNP were believed to be involved. (Tambiah 1992:71).

NGOs have become the latest victim of violent attacks by extremist Sinhala-Buddhist nationalist groups in the context of rising anti-NGO sentiments referred to above. Several attacks against NGOs have been documented in the recent past. In May 2006, grenades were thrown into the offices of three INGOs (ZOA Refugee Care, INTERSOS and Non-Violent Peace Force) in Muthur town, Trincomalee, leaving one international staff member injured and the offices and equipment damaged. In January 2007, the JHU spurred by news reports that the Dutch aid agency Zoa Refugee Care had been accused of aiding Tamil rebels, barged into the agency's offices and took files, which it gave to the Sri Lankan Defense Ministry for an inquiry (Sengupta 2007).

5. Conclusion

Each part of a state has its own vision and the subsequent embodiment thereof. When the visions of the parts are not compatible, their embodiment will also be contentious. As long as a state's parts assert these contentious visions, a reconciliation between any one part and the state is counterproductive because it resolves only part of the problem of national integration. Worse, such a reconciliation may compound the problem by making the state appear partisan. Thus the state must play arbiter and agent in the achievement of rapprochement among the parts' visions of themselves, and of one another, in their vision of the whole.

Rajagopalan 2001:178

Research for this paper commenced when the military conflict between the GoSL and the LTTE was at its height. As it is being completed more than a year later, the war is over. Following a violent military campaign the GoSL defeated the LTTE in May 2009. The Sri Lankan national state which was under threat of disintegration and separation for 30 years from the mid-1980s onwards is at least for the moment freed from this threat Sri Lanka is now confronted with the challenge of moving from a post-war to a post-conflict society and building an integrated political community across the ethnic divide. The question is whether it can effectively do so without addressing the problem of Sinhala Buddhist nationalism and its divisive role in the past. In the previous chapters of this paper it was argued that Sinhala-Buddhist hegemonic ideology found expression in Sri Lanka in mainly four different ways:

- 1) in the self-identification of the state with Buddhism,
- 2) in laws and policies influenced by Sinhala Buddhist ideology and which are particularly discriminatory towards other communities,
- 3) in the media and the system of education and
- 4) in expressions of collective violence against 'other' communities.

The post-war Sri Lankan state needs to tackle head on these manifestations of Sinhala Buddhist ideology in order to build a secular state in which all religious and ethnic communities enjoy equal rights, with no community being given special privileges. This will entail

- 1) redefining the state in a manner which is inclusive of all communities
- 2) reforming laws and policies which privilege the majority and discriminate against other communities
- 3) reforming media and educational structures and
- 4) acknowledging past violence against other communities and providing appropriate redress.

In the current post war context, while there is an attempt to fashion a new 'Sri Lankan' identity, the concern is that the ideology behind such a new identity will still be a thinly disguised version of the old ideology or mere a reformulation of it. In its essential sense, secularism

denotes a set of notions and values whose aim is to ensure that the state is neither engaged in promoting specific religious beliefs and values, nor uses its powers and offices to persecute other religions. In a secular state, government officials will be barred from using their political authority to impose a narrow set of religious attitudes and values on the larger society. In a secular state, citizens will not be allowed to use religious symbols to agitate one religious community against another.

Of course the idea of the secular state or a state in which religion and politics are separated may be anathema to many Sinhalese Buddhists including some sections of the Buddhist clergy which have for centuries demanded state patronage and privileges for Buddhism as a right. However secularism is perhaps a multi-religious society's best defense against the imposition of the religious values and worldview of one community on another. While it is designed to prevent organized religion from controlling public institutions, it does not aim at undermining religiosity or alienating religious communities.

BIBLIOGRAPHY

- Abeyssekara, Ananda (2002) *Colours of the Robe: Religion, Identity and Difference*, South Carolina, University of South Carolina.
- Bartholomeusz Tessa J. (2002) *In Defense of Dharma: Just War Ideology in Buddhist Sri Lanka*, London and New York, Routledge Curzon.
- Bartholomeusz Tessa J. and Chandra R. De Silva Eds.(1998) *Buddhist Fundamentalism and Minority Identities in Sri Lanka*, Albany, NY, State University of New York Press.
- Bartholomeusz Tessa J. (2001) "First Among Equals: Buddhism and the Sri Lankan State." In Ian Harris (ed) *Buddhism and Politics in 20th Century Asia*. Continuum International Publishing Group, 173-193.
- Bechert, Heinz (1978) "The Beginnings of Buddhist Historiography: Mahavamsa and Political Thinking." In Bardwell L. Smith (ed) *Religion and Legitimation of Power in Sri Lanka*, Chambersburg PA, Anima Books.
- Beckert Fund for Religious Liberty (2008) "Submission of the Beckert Fund for Religious Liberty to the United National Human Rights Council for the Universal Periodic Review of Sri Lanka". 8 February 2008, Available at <http://www.lankaliberty.com/documents/Sri-Lanka-UPR-Jan-08.pdf>
- Bose, Sumantra (2007) *Contested Lands: Israel-Palestine, Kashmir, Bosnia, Cyprus, and Sri Lanka*, Cambridge and London, Harvard University Press.
- Canegaratne A.J. (Ed) (2006) *Selected Writing of Regi Siriwardena: Vol II - Politics and Society*, Colombo, International Centre for Ethnic Studies.
- Christian Solidarity Worldwide (2004) "Briefing: Sri Lanka, Visit to Sri Lanka, Sept 15 – 25, 2004", Surrey, Christian Solidarity Worldwide
- Devotta, Neil (2007) *Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka*, Policy Studies 40, Washington, East West Centre.
- Dias, Wije (2006) "Sri Lankan Supreme Court ruling undermines basis for peace talk", 8 November 2006, World Socialist Website, Available at <http://www.wsws.org/articles/2006/nov2006/sril-no8.shtml>
- Fernando, Santhush (2009) "Anti-conversion legislation: Ethical or unethical?" *Nation Newspaper*, 14 February 2009
- Fonseka, Bhavani and Raheem, Mirak (2008) *A Brief Profile of the Trincomalee High Security Zone and other Land Issues in Trincomalee District*, Colombo, Centre for Policy Alternatives.

- Frydenlund, Iselin (2005) *The Sangha and its relation to the Peace Process in Sri Lanka*, A report for the Norwegian Ministry of Foreign Affairs, International Peace Research Institute, PRIO Report 2/2005, Oslo, January 2005.
- Gaveshaka (2003) "A seat of Buddhist learning is born", *Sunday Times*, December 3, 2006
- Goodhand et al (2006) *Aid, Conflict and Peacebuilding in Sri Lanka 2000 - 2006*, Asia Foundation, Colombo.
- Gunawardana, R.A.L.H (1995) *Historiography in a Time of Ethnic Conflict: Construction of the Past in Contemporary Sri Lanka*, Colombo, Social Scientists' Association.
- Gunawardena Asoka and Lakshman WD (2008) "Challenges of moving into a devolved polity in Sri Lanka". In Fumihiko Saito (ed) *Foundations for local governance: decentralisation in comparative perspective*, Springer.
- Hoole, Rajan (2001) *Sri Lanka: The Arrogance of Power – Myths, decadence and murder*, Colombo, University Teachers for Human Rights.
- Horowitz, L Donald (2002) *The Deadly Ethnic Riot*, California, The University of California Press.
- Horowitz, L Donald (1990) *Community Conflict: Policy and Possibilities*, University of Ulster, Coleraine.
- Hughes James J. (1987) *Buddhist Monks and Politics in Sri Lanka*, paper Presented at the Spring Institute for Social Science Research University of Chicago, Chicago April, 1987
- International Crisis Group (ICJ) (2007) *Sinhala Nationalism and the Elusive Southern Consensus*, Asia Report Asia Report N° 141, 7 November 2007
- Iqbal M C M (2000) "The Beginning of the Ethnic Problem in Sri Lanka: Violation of Language Rights", *LST Review*, Vol. 11, Issue 154, pp 24-28, Colombo, Law and Society Trust.
- Jayawardena, Kumari (1985) *Ethnic and Class Conflicts in Sri Lanka: Some Aspects of Sinhala Buddhist Consciousness over the past 100 years*, Dehiwela, Centre for Social Analysis.
- Juergensmeyer, Mark (1994) *The New Cold War: Religious nationalism confronts the secular state*, University of California Press.
- Juergensmeyer, Mark (1995) "The new religious state", in *Comparative Politics* Vol 27, No. 4 (July 1995) pp 379 -391.
- Kadrigamar, Ahilan (2009) "The Challenges of Solidarity", Red Pepper, London, April 2009. <http://www.redpepper.org.uk/The-challenges-of-solidarity>

- Kariyawasam, Tilak (2003) Ven. Migettuwatte Gunananda Thera - the debator par excellence, *Daily News*, 19 August 2003.
- Keenan, Alan (2005) "Bindunuwewa: Justice Undone?", *State of Human Rights* 2004, Colombo, Law and Society Trust .
- Kemper, Stephen (1990) J.R. Jayawardene: Righteousness and realpolitik in Jonathan Spencer (Ed) *Sri Lanka: History and the Roots of Conflict*, London and New York, Routledge.
- Kloppenburg, Ria (2004) A Buddhist Christian Encounter in Sri Lanka: The Panadura Vada in Steven in J. Sutcliffe (ed) *Religion: Empirical Studies*, Ashgate Publishing Ltd.
- Korf, Bernard and Silva, Kalinga Tudor (2003) Poverty, Ethnicity and Conflict in Sri Lanka, Paper presented at the Conference Staying Poor: Chronic Poverty and Development Policy, University of Manchester, 7-9 April 2003. <http://www.chronicpoverty.org/pubfiles/KorfSilva.pdf>
- Leach, Edmund (1973) Buddhism in the Post Colonial Political Order in Burma and Ceylon, *Daedalus*, vol. 102, No. 1, Post Traditional Societies, Winter 1973, pp. 29-54.
- Liyanage Priyath (1998) Popular Buddhism, Politics and the Ethnic Problem in Jeremy Armon and Liz Philipson (Issue Editors) *Demanding Sacrifice: War and negotiation in Sri Lanka*, Accord Conciliation Resources, August 1998
- Malalgoda, Kithsiri (1976) Buddhism in Sinhalese Society 1750 – 1900: A study of religious revival and change, Berkley, Los Angeles and London, University of California Press.
- Ministry of Education (2008) National Policy and a Comprehensive Framework of Actions on Education for Social Cohesion and Peace.
- Nadarajah, Suthaharan (2005) *Sri Lanka's Vernacular Press and the Peace Process: Part of the Sri Lanka Strategic Conflict Assessment 2005, 2000 – 2005*, Colombo, Asia Foundation.
- Nissan, Elizabeth and Stirrat, R.L (1990) "The generation of communal Identities." In Jonathan Spencer (ed) *Sri Lanka: History and the Roots of Conflict*, London and New York, Routledge.
- Nubin, Walter (2002) *Current Issues and Historical Background*, New York, Nova Science Publishers.
- Obeyesekere, Gananath (2009) Buddhism, Political Violence and the Dilemmas of Democracy in Sri Lanka, Occasional Paper, New Delhi, Center for the Study of Developing Societies.
- Obeyesekere, Gananath (1993) "Dutthagamini and the Buddhist Consciousness." In Douglas Allen (Ed) *Religion and Political Conflict in South Asia: India, Pakistan and Sri Lanka*, Delhi, Oxford University Press.

- Orjuela, Camilla (2004) *Civil Society in Civil War: Peace Work and Identity Politics in Sri Lanka*, Sweden, Department of Peace and Development Research, Goteborg University.
- Owens, Alexandra (2006) Using Legislation to Protect Against Unethical Conversions in Sri Lanka,
- Phadnis, Urmila (1976) *Religion and Politics in Sri Lanka*, London, C. Hurst and Co.
- Rampton, David and Welikala, Asanga (2005) The Politics of the South. Sri Lanka strategic conflict assessment; No.3. Colombo: The Asia Foundation.
- Rajagopalan, Swarna (2001) *State and Nation in South Asia*, Boulder and London, Lynne Rienner Publishers.
- Ratnam, Pradeep (1998) Right to Education in Sri Lanka: State of Human Rights, 1998, Colombo, Law and Society Trust.
- Richardson, John (2005) *Paradise Poisoned: Learning About Conflict, Terrorism and Development from Sri Lanka's Civil Wars*, Colombo, International Centre for Ethnic Studies.
- Roberts, Michael (2003) *Sinhala Consciousness in the Kandyan Period 1590s to 1815*, Colombo, Vijita Yapa Publications.
- Samaranayake, Ajith (2003) Ven. Gangodawila Soma : The monk as totemic figure, *Sunday Observer*, 21 December 2003
- Satkunanathan, Ambika (1999) The Act that Wasn't: Equal Opportunity Legislation in Sri Lanka, LST Review, Vol. 10, Issue 144, October 1999, Colombo, Law and Society Trust.
- Savanadasa, Jagath (2007) Sinhala Jathiya Press and Piyadasa Sirisena, *Sunday Observer*, 2 December 2007.
- Seneviratne, H.L. (2004) *Buddhism, Identity and Conflict*, Colombo, International Centre for Ethnic Studies
- Seneviratne, H.L. (1999) *The Work of Kings: The New Buddhism in Sri Lanka*, Chicago and London, The University of Chicago Press.
- Sengupta, Somini (2007) Sri Lankan Government finds support from Buddhist Monks, *New York Times*, February 25, 2007.
- Shastri, Amita (1997) Government Policy and the Ethnic Crisis in Sri Lanka in Micheal E. Brown and Sumit Ganguly (eds) Government Policies and Ethnic Relations in Asia and the Pacific, MIT Press.

- Siriwardena C D S (1966) Buddhist Reorganisation in Ceylon in Donald E Smith (ed) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press.
- Siriwardena Reggie (1984) National Identity: Content of Education and Ethnic Perceptions In A.J. Canegaratne (Ed) *Selected Writing of Regi Siriwardena: Vol II - Politics and Society*, Colombo, International Centre for Ethnic Studies.
- Siriwardena Reggie (n.d) National Identity in Sri Lanka: Problems in Communication and Education in A.J. Canegaratne (Ed) *Selected Writing of Regi Siriwardena: Vol II - Politics and Society*, Colombo, International Centre for Ethnic Studies.
- Skanthakumar, B (2008) *Language Rights in Sri Lanka: Enforcing Tamil as an Official Language*, Colombo, Law and Society Trust
- Smith, Donald E (ed) (1966a) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press.
- Smith, Donald E (1966b) "Emerging Patterns of Religion and Politics." In Donald E Smith (ed) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press, pp 21-48.
- Smith, Donald E (1966c) "The Sinhalese Buddhist Revolution." In Donald E Smith (ed) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press.
- Smith, Donald E (1966d) "The Political Monk and Monastic Reform." In Donald E Smith (ed) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press, pp 489 – 509.
- Spencer, Jonathan (1990a) *A Sinhala Village in a Time of Trouble: Politics and Change in Rural Sri Lanka*, Delhi, Oxford University Press.
- Spencer, Jonathan (Ed) (1990b) *Sri Lanka: History and the Roots of Conflict*, London and New York, Routledge.
- Tambiah, Stanley Jeyaraja (1992) *Buddhism Betrayed? Religion, Politics and Violence in Sri Lanka*, Chicago and London, The University of Chicago Press.
- Tambiah, Stanley Jeyaraja (1986) *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy*, Chicago and London, The University of Chicago Press.
- Tennekoon, Serena (1990) Newspaper Nationalism: Sinhala Identity as historical discourse in Jonathan Spencer (ed) *Sri Lanka: History and the Roots of Conflict*, London and New York, Routledge.

- Thiruchelvam, Neelan (2000) *The Politics of Federalism and Diversity in Sri Lanka in Autonomy and Ethnicity: Negotiating Competing Claims in Multi Ethnic States*, Yash Gai (Ed) Cambridge, Cambridge University Press.
- Tawil, Sobhi and Harley, Alexandra (2004) Education and Identity –based Conflict: Assessing Curriculum Policy for Social and Civic Reconstruction,” in *Education, Conflict and Social Cohesion*, eds. Sobhi Tawil and Alexandra Harley (Geneva: UNESCO, International Bureau of Education, 2004), 15-16.
- Trainor, Kevin (1997) *Relics, Ritual and Representation in Buddhism: rematerializing the Sri Lankan Theravāda tradition*, Cambridge University Press.
- Uchime, Success Kanayo (2009) Anti-Conversion Bill Debate in Sri Lank Suffers Setback, Special to ASSIST News Service, Thursday, February 26, 2009.
- University Teachers for Human Rights (UTHR) (Jaffna) (2007) Can the East be won through Human Culling? Special Economic Zones – An Ideological Journey Back to 1983, Special Report No. 26, 3rd August 2007
- Uyangoda, Jayadeva (2007) Religion in Context: Buddhism and Socio – Political Change in Sri Lanka, Colombo, Social Scientists Association.
- Uyangoda, Jayadeva (2004) Sri Lanka: A Fractured Mandate, South Asian Journal, No. 5 July - Sep 2004. Available at http://www.southasianmedia.net/magazine/journal/fractured_mandate.htm
- Welikala, Asanga (2003) The Menzinger Determination and The Supreme Court: A Liberal Critique, available at http://www.cpalanka.org/research_papers/Menzinger_Review.doc
- Welikala, Asanga (2005) An Anti-Conversion Bill, Again, http://www.cpalanka.org/Newspaper_Articles/Daily_Mirror_02_Apr_2005.doc
- Wickrema, Ariya and Colenso, Peter (2003) Respect for Diversity in Educational Publications: The Sri Lankan Experience, 24 March 2003
- Wijedasa, Namini (2008) Muslim student uniform causes school calamity, Lankbima, 16 November 2008, . http://www.lankanewspapers.com/news/2008/11/35205_space.html
- Wilson, A.J. (1966) Buddhism in Ceylon Politics, 1960 – 1965 in Donald E Smith (ed) *South Asian Politics and Religion*, Princeton, New Jersey, Princeton University Press.
- Wriggins, Howard (1960) *Dilemmas of a New Nation*, Princeton, Princeton University Press.

