

## Marginalization and Inequality at Interface

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### **Introduction**

Marginalization and inequality exist in all the societies in the world in any form. Both meet at interface and interacts each other without leaving any space to the marginalized people. The marginalized people include a group of people-differentiated from others by race, nationality, religion, caste, language and gender in the same society. Marginalization is a process which constrains the choices of political participation, socio-economic cultural dependence of the minorities on the road of the margins. All the exclusions in various parameters overlap and affect the structural phenomena of the social, political, economic and cultural scenario. The road map of the marginalized people in India traces its origin from the core bases of Manu Smriti which divide people on the basis of birth. Despite Indian law that considers all men and women as equal subjects; Muslim societies do not treat women as equals in some places. Hinduism calls for women to be faithful servants to God and their husbands. Religious laws and expectations enumerated by each religion often conflict with Indian constitution and these cross overs in legality make the Government to be more responsible and potential in upholding the integrity of the nation. The constitutional provisions and legislations defend the marginalized people and enhance the humanistic, democratic and secular fabric of the country.

### **Constitutional Safeguards**

Jawaharlal Nehru referred "India as an ethnological museum" because of its diverse features. So the Government takes utmost care to protect and provide equality and freedom of the people. The Indian Constitution granted equality in freedom from discrimination based on caste, religion, language, gender etc., under Article 14 which emphasis that "All are equal before law". The Indian sub-continent with diverse racial, cultural, linguistic and religious features poses a serious threat to uphold the ideals of equality. The strength and greatness of democracy can be gauged from the constitution which accord special rights to these Minorities. The Constitution

does not define the term “Minorities” it mentions diverse minorities in a special way in Article 29 and 30.<sup>1</sup>

The protection of minorities became the basic features of secularism and an essential ingredient of all the religious composite ideals. Dr.B.R. Ambedkar, the greatest hitherto leader of untouchables introduced constitutional safeguards to equip them with political power, to improve their socio-economic, educational and cultural conditions to promote equality and respect.

Article 46, states that the state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular of the Scheduled Caste and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.<sup>2</sup>

### **Education**

Marginalization in education is an important factor in the widening of social and economic inequalities.<sup>3</sup>Jawaharlal Nehru emphasized that “Education of a boy is education of a person but education of a girl is education of entire family”. An educated mother can play a pivotal role in physical and emotional development of children.Education of women is one of the effective tool and proper channel to reduce socio-economic inequalities and overcome discrimination. Education plays a vital role in transforming a society into a civilized nation. All the citizens of India are guaranteed to protect and preserve their culture, language, religion, race etc., in distinctive way.

Education is the prime impediment on women and major cause for their backwardness, the enlarged gender disparity and insecurity throughout their life. Though Muslim community was declared as a backward class but the women were not allowed and their religious restriction made education beyond their reach. As religious minority, they felt insecurity during the communal riots in 1990 and Gujarat riot 2002 and debarred from social mobility.

According to the report of the High Level Committee headed by Justice Rajindar Sachar on Social, Economic and Educational Status of the Muslim committee of India, Muslims have the largest percentage share of children in the age group of less than 10 years with 27 percent falling in this range as compared to the 23 percent for the country as a whole. However the current enrollment and continuation rates at elementary level (though picking up in recent years) are the lowest for the Muslims. These facts make primary education particularly important for

the community and the need to ensure that all the children in the age group of 0-14 have access to free and high quality education.<sup>4</sup>

The National Policy on Education, 1986 laid special emphasis on the removal of disparities and to equalize educational opportunity. Education is an agent of basic change in the status of women. Major emphasis will be laid on women's participation in vocational, technical and professional education at different levels.<sup>5</sup>

The socio-cultural milieu of the Scheduled Tribe's has its distinctive characteristics including their own language. So the need to develop the curriculum and devise instructional materials in tribal languages at the initial stages with arrangements for switching over to the regional languages.

D.A.V. College, Bhatinda vs. State of Punjab, the University ordered that Punjabi would be the one and only medium of instruction in affiliated colleges. The Court declared that the right given to minorities under Article 30 guarantees them to establish and administer educational institutions of their own choice which includes the right of giving instructions in their own language and the University Circular directly violated their right to have instructions in Hindi as their own language and therefore infringed the Article 30 (1). A University has the authority to suggest the qualification of their academic staff but the selection and recruitment of teachers rests with the minorities.<sup>6</sup>

### **Religious Denomination**

Islam, the largest minority religion in India does not discriminate or oppress women but patriarchal system clichéd passive victims of violence and discrimination within their religious community. The Quran guarantees a number of rights to women which are constantly denied to them as a consequence of patriarchal interpretations. Islam has established for women is that which suits her nature, gives her full security and protects her against disgraceful security and protects her against disgraceful circumstance and uncertain channels of life but the Islamic practices cannot be said to conform in many aspects with the true principles of Islam.<sup>7</sup>

The social structure of Muslim community has deepened the inequality and marginalization within itself. Muslim women were subjected to number of hardships. They were debarred from education and denied right of freedom. They were backward because they lack

self-confidence and economically dependent for their livelihood. Women are required to obtain permission of father, husband or other male guardian to marry, seek employment and start a business or travel. Orthodox Muslims uphold the low position of women as a symbol of their cultural identity. Only men have the right to divorce unilaterally and without cause. There is no provision for alimony and polygamy is allowed only for men.<sup>8</sup> Islamic women are marginalized and secluded from the mainstream of life as compared to other women, so their inequality interact with each other which leads to many difficulties and issues in the life of women in Islam. Lack of social awakening and political consciousness of Muslim women was the base for their backwardness and marginalization.

### **Triple Talaq**

In traditional Islam jurisprudence, triple Talaq was legally valid form of divorce. Muslim marriages in India are considered as a private matter, unless the couple decided to register their marriage under Special Marriage Act of 1954. Under Muslim law a husband has an absolute and unlimited right to repudiate the marriage at his will.<sup>9</sup>

Shah Bano's case of maintenance and the verdict of Supreme Court regarding Triple Talaq in 1985 was a historic verdict in two ways

- i. Uniform civil code is applied to all religion.
- ii. Criminal procedure is applied to personal religious laws.<sup>10</sup>

So the divorced Muslim women under Section 125 of Criminal Procedure (CrPc) affirm maintenance from their former husband. The uniform civil code will enhance national integration by removing the disparities and inequalities among the people. This judgment became a major national issue and Muslims protested against the interference and encroachment on Muslim Personal Law.

The Muslim Women Protection of Rights on Divorce Act 1986 was passed by Rajiv Gandhi to invalidate the decision given by Supreme Court in Shah Bano's case to assuage the Muslim voters. The law gave Muslim Personal Law priority over Criminal Law in maintenance issues and doing by so effectively excluded Muslim women from seeking criminal procedure.<sup>11</sup> The legislature reaffirmed and re-established the patriarchal system and religious justification

over women. The Muslim community considered their Personal Law as an integral part of their culture.

National Democratic Alliance (NDA) Government abolished Talaq-e-biddat or instantaneous Talaq as a practice which discriminates against women by passing “The Muslim Women Protection of Rights on Marriage Act in 2019”. But the Congress in the upper house opposed it on the grounds that religious freedom of the Muslim community of Article 25 and 26 of the Indian Constitution was impinged. According to the Act “Any pronouncement of Talaq by a Muslim husband upon his wife, by words, either spoken or written in electronic form in any other manner whatsoever shall be void and illegal.” Any Muslim husband who pronounces Talaq shall be punished with imprisonment for a term which may be extend to three years and shall also be liable to fine.<sup>12</sup> It had received forms from 35 million Muslim women across the country, supporting shariat and Triple Talaq.<sup>13</sup> The Act established gender justice to the women folk of Islam.

### **Conclusion**

The Constitutional safeguards, judiciary and legislations protect the women from harassment but religious conservative and hostile observers opposed and treat women as subservient. Minority Rights are enshrined in Fundamental Rights to protect and preserve their language, culture, tradition, race etc., and enjoy freedom. Legal apparatus is so expensive and time consuming; some of the marginal sections of the society have no stamina to obtain justice from courts. So the attitude of the majority and the needs and aspirations of the minority with the good governance of the nation only can establish a just and equitable order of the society.

## References

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<sup>2</sup>Dinesh Singh Rathore, *Dalit and Human Rights*, Black Prints, New Delhi, 2013, p.214.

<sup>3</sup>Journal of Political Sciences and Public Affairs, *Intersectionality of Marginalization and Inequality, A Case Study of Muslims in India*, 2016, p.3.

<sup>4</sup>*Sachar Committee Report*, Ministry of Minority Affairs, Government of India, 2006, p.3.

<sup>5</sup>*National Policy on Education 1986*, Ministry of Human Resource Development, Government of India, New Delhi, 1986, p.6.

<sup>6</sup>*All India Report*1731, 1971 Supreme Court Report 677

<sup>7</sup>Nirmala Jeyaraj, *Women and Society*, Lady Doak College, Madurai, 2009, pp.300-301.

<sup>8</sup>*Women Islamic Societies: A Selected Review of Social Scientific Literature*, Federal Research Division, Library of Congress, Washington.D.C, 2005, p.42.

<sup>9</sup>Maya Majumdar, *Social Status of Women in India*, Wisdom Press, Delhi, 2012, p.138.

<sup>10</sup> All India Report 1985, SC 945

<sup>11</sup> AnjuBindra, *Feminism and Women's Rights*, Manglam Publications, Delhi, 2011, p.232.

<sup>12</sup>*The Gazette of India, The Muslim Women Protection of Rights on Marriage Act*, Ministry of Law and Justice, New Delhi, 2019, p.2.

<sup>13</sup>*The Times of India*, dated 10<sup>th</sup> April 2017.